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Press Release

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Human Rights Committee
Fiftieth Session
1292nd Meeting (AM)

HR/CT/316
21 March 1994

HUMAN RIGHTS COMMITTEE OPENS FIFTIETH SESSION

Chairman Announces Jordan Will Not Appear as Scheduled

As the Human Rights Committee opened its fiftieth session this morning, its Chairman, Nisuke Ando, expert from Japan announced that the delegation from Jordan would not appear as scheduled to answer questions on that country's third periodic report on implementation of the International Covenant on Civil and Political Rights.

The Committee had originally scheduled Jordan as the first report to be examined in its programme of work, to be followed by those of Costa Rica, Mexico, Cameroon, and El Salvador. Members of the Committee of experts raised concerns about the unusual timing and nature of Jordan's notification and questioned if the delegation would be able to appear later in the three-week session.

Following the adoption of its agenda and the programme of work, the Chairman of the Committee's working group on communications introduced a report on its activities. Also introducing a report was the Chairman of the working group under article 40, which concerns the nature of the reports of States parties. The working group is charged with submitting a list of issues to be raised when governments present their periodic reports during the session. The Committee approved, with amendments, the issues for the reports of Costa Rica, Mexico and Cameroon.

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For information media - not an official record

In a discussion of the report of the working group under article 40, the expert from Austria questioned the lack of timely summmary records from the Committee's forty-ninth session and the subsequent effect on its final report. A representative of the Secretariat informed the Committee that a request for summary records in English had been approved, but they would not be available in time for the report.

In an opening statement, Helga Klein, Chief, International Branch, Centre for Human Rights, called attention to the appointment of Jose Ayala Lasso as the new United Nations High Commissioner for Human Rights and reported on recent human rights activities by the General Assembly, the Commission on Human Rights and other treaty bodies.

The Committee, an 18-member body of experts serving in their personal capacity, monitors compliance of States parties with the provisions of the International Covenant, which entered into force in 1976, 10 years after its adoption by the Assembly. The 53-article Covenant guarantees to everyone the right to life, liberty and security of person. It also prohibits torture, cruel or degrading treatment or punishment, and arbitrary deprivation of life.

During the session, scheduled to end on 8 April, the Committee will also examine communications from nationals of States parties to the Optional Protocol to the Covenant claiming to be victims of violations of any rights proclaimed by the Covenant.

The officers of the Committee are: Chairman, Nisuke Ando, expert from Japan; Vice Chairmen, Vojin Dimitrijevic, from Yugoslavia, Omran El-Shafei, from Egypt, and Bertil Wennergren, from Sweden. The Rapporteur is Jose Aguilar Urbina of Costa Rica.

The Committee will meet again at 3 p.m. today to continue consideration of a list of issues to be raised in response to the second periodic report of El Salvador.

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Committee Work Programme

The Human Rights Committee met this morning to begin its fiftieth session. During the three-week session, the Committee will hear periodic reports by Jordan, Czech Republic, Mexico, Cameroon and El Salvador on the measures adopted by their Governments to implement the International Covenant on Civil and Political Rights.

At this morning's meeting, the Committee will adopt its proposed programme of work, hear reports of the Chairman and the Rapporteurs of the pre-sessional working groups on communications, and the list of issues concerning periodic reports.

Also this morning, the Committee will hear a solemn declaration by newly electedmembers of the Committe, Tamas Ban of Hungary, who is filling the vacancy created by the death of Janos Fodor, also of Hungary.

The Committee decided at its forty-ninth session to set up a working group under article 40 of the Covenant to prepare concise lists of issues concerning period reports scheduled for consideration at this session.

(For detailed background, see Press Release HR/CT/315, issued 18 March.)

Statement by Chief of International Instruments Branch

HELGA KLEIN, Chief, International Instruments Branch, Centre for Human Rights, said that the General Assembly had recently confirmed the appointment of Jose Ayala Lasso of Ecuador as United Nations High Commissioner for Human Rights, a post created by the Assembly at its forty-eighth session as a follow-up to a recommendation contained in the Vienna Declaration and Programme of Action. He will take up his functions in Geneva immediately after Easter. The High Commissioner would be responsible for making recommendations to competent bodies of the United Nations system for improving the promotion and protection of all human rights, for engaging all Governments in a dialogue with a view to securing respect for all human rights, and for coordinating human rights activities throughout the United Nations system and, in that regard, for strengthening and streamlining United Nations human rights machinery.

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In meeting the challenges of his mandate, she said, the High Commissioner would need the good will and collaboration of all States, human rights bodies, intergovernmental agencies and non-governmental organizations, including the expertise of the Committee. In his recent statement to the fiftieth session of the Commission on Human Rights, Mr. Ayala Lasso emphasized the importance of compliance by all States with the obligations they had undertaken in ratifying or acceding to international human rights instruments. He had affirmed his intention to establish harmonious and fruitful working relations with all human rights treaty bodies.

Turning to human rights-related activities of special interest that had taken place since the Committee's last session, she said the Assembly had adopted several human rights-related resolutions, including resolution 48/119 on the International Covenant on Human Rights, at its last session. Those resolutions welcomed the efforts being made by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to improve their working methods, in particular by adopting "concluding observations" that contained specific suggestions and recommendations concerning steps States parties could take to implement the Covenants more effectively. The Assembly also had encouraged the Committee to consider innovations in their working methods, in particular those aiming at the prevention of serious human rights violations and at the promotion of peaceful solutions. Additionally, the Assembly again invited the Committees to identify specific needs of States parties that might usefully be addressed through the Advisory Services and Technicadl Assistance Programme of the Centre for Human Rights, with the possible participation of members of one of the Committees, where appropriate.

In the Assembly's resolution on the effective implementation of international human rights instruments, she said the Secretary-General had abeen requested to give high priority to establishing a computerized database to improve the functioning of the treaty bodies. Since the establishment of a comprehensive database in the Centre would be a long-term process, the International Instruments Branch had initiated contacts aimed at having the treaty bodies benefit, as soon as possible, from existing databases developed within other international organizations, notably the United Nations Children's Fund, the International Labour Office, the High Commissioner for Refugees and the Council of Europe.

She went on to say that at the most recent session of the Commission on Human Rights, which concluded on 11 March, the

Commission called on States to disseminate at the national level the reports they had submitted to the Committee, as well as the summary records relating to the examination of those reports and the comments of the Committee. The Commission had also adopted a number of other resolutions that referred to treaty bodies' work in general and to the work of the Committee.

Concerning developments in other treaty bodies that had taken place in recent months, she said that the Committee against Torture had completed its first inquiry procedure under article 20 of the Convention against torture by issuing a summary of its proceedings on Turkey in its annual report to the forty-eighth session of the General Assembly. The procedure had been initiated in April 1990, pursuant to a communication submitted by a non-governmental organization alleging that torture was systematically practised in Turkey. After examining those allegations, the Committee requested two of its members to make a confidential inquiry, including a field mission. On 9 November 1993, the Committee decided, on the basis of the findings made by the members of the mission of inquiry, its own conclusions, and the replies and observations of the Turkish authorities to those conclusions, to make public an account of the results of the inquiry.

She informed the Committee that all treaty bodies, including the Committee on the Elimination of Discrimination against Women, had decided to issue concluding comments, reflecting the views of those bodies as a whole, on each State party report. The procedure initiated by the Committee in March 1992 had served as the model for all the other Committees. She renewed the Centre's pledge of continued support for the Committee's important work.

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Human Rights Committee
Fiftieth Session
1293rd Meeting (PM)

HR/CT/317
21 March 1994

HUMAN RIGHTS COMMITTEE APPROVES ISSUES FOR EL SALVADOR EXAMINATION

Report Will Be Considered 24 March; among Issues Are Disappearances, Extrajudicial Execution, Detention

The Human Rights Committee this afternoon amended and approved the list of issues to be raised in the examination of El Salvador's second periodic report on measures that country has adopted to implement the International Covenant on Civil and Political Rights.

Among the issues to be discussed which will be considered in detail when El Salvador presents its report on Thursday, 24 March, are measures taken to investigate cases of disappearances, extrajudicial execution, torture and other human rights violations connected with administrative detention.

Also this afternoon, the Committee decided that the Chairman of the Committee, Nisuke Ando, expert from Japan, should meet informally with the Permanent Representative of Burundi to clarify the status of a previously requested special report on the human rights situation in Burundi. The Chairman told members that, in the absence of the written report requested for 31 January, the Mission of Burundi had offered to appear before the Committee.

In discussing Burundi's proposal, several Committee members expressed concern that allowing Burundi to make an oral presentation instead of a written report would set an unfortunate precedent. An oral presentation would not allow for a systematic examination of the implementation of the Covenant in a country on which a special report had been requested.

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In addition, the Committee adjusted the programme of work for its three-week session to compensate for the announcement earlier today that the delegation of Jordan would not be appearing on 22 March to present its third periodic report. On that date, the Committee will examine instead a draft general comment on article 27 of the Covenant on the rights of ethnic, religious and linguistic minorities. It will also consider a first draft general comment on article 25 on political participation.

The Committee decided to inform the Government of Jordan that it would adopt a new list of issues when that State party came before the Committee to answer questions related to its periodic report.

The Committee will meet again at 10 a.m. Tuesday, to consider draft general comments on articles of the Covenant.

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Human Rights Committee
Fiftieth Session
1294th Meeting (AM)

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22 March 1994

HUMAN RIGHTS COMMITTEE ADOPTS PARAGRAPHS OF DRAFT GENERAL COMMENT TO ASSIST STATES IN PROTECTING RIGHTS OF MINORITIES

Comment Applies to Article 27 of International Covenant on Civil And Political Rights, Which Protects Ethnic, Religious, Linguistic Minorities

The Human Rights Committee this morning adopted two paragraphs of its draft general comment to assist States parties in the implementation of article 27 of the International Covenant on Civil and Political Rights, which concerns the rights of ethnic, religious and linguistic minorities.

Article 27 of the Covenant reads "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion or to use their own language".

At its second session in 1988, the Human Rights Committee decided to prepare general comments based on the various articles and provisions of the International Covenant on Civil and Political Rights to assist States parties in fulfilling their reporting obligations and promote their further implementation of the Covenant.

In its resumed discussion of the draft general comment on article 27, as introduced by the expert from Mauritius, the Committee adopted the second paragraph, by which it indicates that some communications submitted under the Optional Protocol to the Covenant had confused the right to self-determination with the rights of minorities. In addition, in some reports of States parties, the rights of minorities had been confused with the principle of non-discrimination.

Discussion of the draft comment's third paragraph focused on the distinction between the rights contained in article 27 and the principles of sovereignty and territorial integrity. According to the paragraph, as adopted, the enjoyment of rights to which article 27 relates should not prejudice the sovereignty and the territorial integrity of the State party.

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At the same time, one or other rights of individuals protected under that article -- for example, to enjoy a particular culture -- might consist of a way of life closely associated with territory and use of its resources. For example, it might be true of an individual member of an indigenous community that is considered a minority within the State.

The Committee also began an examination of the fourth paragraph of its draft comment, which addresses the problem of States parties that claim they do not discriminate on grounds of ethnicity, language or religion, and wrongly contend that they have no minorities.

The Committee will meet again at 3 p.m. today to continue discussion of its draft general comment on article 27 of the Covenant.

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Human Rights Committee
Fiftieth Session
1295th Meeting (PM)

HR/CT/319
22 March 1994

COMMITTEE ON HUMAN RIGHTS CONTINUES PREPARATION OF GENERAL COMMENT ON PROTECTION OF ETHNIC, RELIGIOUS, LINGUISTIC MINORITIES

The Human Rights Committee this afternoon adopted paragraphs four and five of its draft general comment on article 27 of the International Covenant on Civil and Political Rights, which focuses on the protection of the rights of ethnic, religious and linguistic minorities.

The preparation of draft general comments is based on a decision of the Committee's second session in 1988. Comments on the various articles and provisions of the Covenant are designed to assist States parties in fulfilling their reporting obligations and promoting their further implementation of the Covenant.

According to the fourth paragraph of the draft general comment, the entitlement to enjoy the rights under the Covenant without discrimination, applies to all persons within the territory or under the jurisdiction of the State whether or not those persons belong to a minority.

Paragraph five of the comment explains that the persons protected by article 27 of the Covenant belong to a group that shares in common "a culture, a religion and/or a language". Those individuals need not be citizens or permanent residents of the State party. Thus, migrant workers or even visitors in a State that is a party to the Covenant are entitled not to be denied the exercise of the rights guaranteed under article 27.

That paragraph also states that the existence of an ethnic, religious or linguistic minority does not depend on a decision by the State party, but upon objective criteria. The right of individuals belonging to a linguistic minority to use their language among themselves in public or in private should not be confused with other language rights under the Covenant. In particular, it should be distinguished from the general right of freedom of expression protected under article 19.

Also this afternoon, the Committee adopted the first part of paragraph six, which refers to the obligation of a State party to recognize that the existence and exercise of the rights under article 27 be protected against their denial or violation. The second half of paragraph six, which addresses

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issues of affirmative measure for the promotion and development of the rights of minorities, will be redrafted by the experts from Australia and Italy for discussion at the afternoon meeting of 25 March.

Tomorrow, the Committee will meet in closed session to consider, under the Optional Protocol to the Covenant, confidential communications from individuals claiming to be victims of violations of any of the rights proclaimed in the Covenant.

The Committee will meet again at 10 a.m. Thursday, 24 March, to examine the third periodic report of Costa Rica.

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Press Release

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Human Rights Committee
Fiftieth Session
1298th Meeting (AM)

HR/CT/320
24 March 1994

HUMAN RIGHTS COMMITTEE, ACKNOWLEDGING COSTA RICA'S HUMAN RIGHTS SUCCESSES, EXPRESSES DISAPPOINTMENT WITH REPORT ON IMPLEMENTATION OF COVENANT

Experts Say Report Inadequate, Does Not Meet Committee Guidelines

Experts of the Human Rights Committee this morning, while acknowledging Costa Rica's history of human rights accomplishments, expressed disappointment that the third periodic report of Costa Rica on its implementation of the provisions of the International Covenant on Civil and Political Rights was inadequate, did not conform tc the guidelines laid down by the Committee and had not been made available to the public.

In introducing the report to the Committee, the representative of Costa Rica acknowledged that it did not meet the Committee's requirements. He called attention to the establishment of a new institution, the Office for the Defense of the Inhabitants of the Republic that had come into being in 1993, following the completion of the report. He cited the limitations imposed by lack of personnel and resources in the compilation of the report and its dissemination.

The representative of Costa Rica, noting that his country had long been a patriarchal society, stated that despite the promulgation of the Law for Real Equality of Women, the advancement of women's rights continued to encounter obstacles. The abuse of women, their inability to collect alimony, their lack of decision-making and leadership posts and the gap between their guaranteed and realized civil and political rights remained significant problems. He stressed the importance of the Office for the Protection of Women and said his Government was working towards the equalization of women's rights.

The expert from Ecuador, posing a question that was reflected in the comments of other Committee members, requested additional information about the actual functioning of the new human rights offices described in the report. He also inquired about the independence of the Office for the Protection of Human Rights and called for more detail about what steps had been taken to handle reported violations of the rights protected by the Covenant.

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The expert from Egypt asked for clarification of the differences between the newly created Office for the Defense of the Inhabitants and the General Office for the Protection of Human Rights. Other experts asked what problems could not be remedied by the General Office that necessitated the establishment of the new office.

The Committee will meet again at 3 p.m. today to continue its examination of the report of Costa Rica.

(page 2 follows)

Work Programme

The Human Rights Committee met this morning to begin its examination of the third periodic report of Costa Rica (document CCPR/C/70/Add.4). The Committee, as the monitoring body of the International Covenant on Civil and Political Rights, periodically examines reports submitted by States parties on their promotion and protection of civil and political rights. Representatives of the Government of Costa Rica will introduce the report and respond to oral and written questions from the Committee's 18 members, who serve in their personal capacity.

Report of Costa Rica

The report focuses specifically on the establishment by the Government of Costa Rica of the General Office for the Protection of Human Rights on 8 March 1990. Its basic function is to protect the human rights of the inhabitants of the territory of Costa Rica and, in particular, to protect the rights of women, children and consumers. Within the framework of those protection functions, the Office takes action whenever the rights of the governed are threatened, obstructed or violated. It prevents abuses through actions it initiates with recommendations it makes to the competent public bodies. It intervenes with the authorities to defend the rights of the governed, recommends legislation, promotes and disseminates knowledge, as well as receiving and investigating complaints.

According to the report, the General Office constitutes the culmination of the efforts made to institute control of the State machinery by protecting the enjoyment and exercise of the fundamental rights of the governed. The General Office is comprised of specialized offices for the protection of human rights, women, children, consumers, users of the National Registry Office and detainees of the prison system. An Assembly of Protectors was established to coordinate and assist each protection office. The directors of the various specialized offices may attend and participate in the deliberations of the Assembly, without the right to vote.

The report states that the Office has proven highly effective and in many cases the mere submission of a complaint was sufficient to allow for resolution of the matter. The moral authority of the Office ensures that any citizen who feels that his rights have been violated may obtain protection within the framework of Costa Rican law.

Each of the specialized offices has a specific function in its area, the report goes on to say. For example, the Office for the protection of human rights deals with the elderly, the indigenous population and the environment. The Office for protection of prison detainees is assigned such functions as prevention of abuses, mediation, and modification of procedures and regulations. The Office for protection of women, hampered by a small budget, has been limited to providing training courses. The report lists the specific goals and programmes of each specialized office and the early casework results.

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With over 42 per cent of Costa Rica's population under the age of 18, the Office for the protection of children performs a number of vital functions with particular emphasis on monitoring, education and training in the rights of the child, states the report. The area of greatest concern involves the living conditions of children, with critical states of poverty accelerating family deterioration and putting children at the greatest risk. The Office is currently carrying out programmes on complaints and accusations, on instruction and information concerning the rights of the child and on the reform and modernization of legislation. As no State budgetary provision exists for the Office, it relies largely on the support of UNICEF.

Regarding domestic jurisprudence that relates to international covenants on human rights, the report states that the primary protective role in Costa Rica is played by the Constitutional Tribunal of the Supreme Court of Justice. The Tribunal is governed by the Constitutional Jurisdiction Act, which says that the Constitutional Court has the function of guaranteeing, by means of the remedies of habeas corpus and amparo, the rights and freedoms established by the Constitution and the human rights recognized by international law.

The Office of the Attorney-General reports on various rights of appeal in Costa Rica, as well as on habeas corpus and amparo. Amparo safeguards all the fundamental rights, except those protected by habeas corpus. The remedy of amparo operates against any provision, decision or act, not based on an enforceable administrative order by public services or agencies, that violates or threatens to violate any of the fundamental rights. A great amount of work has also been done by the Tribunal in such areas as the principle of equality, the right to due process, the right to privacy and the right to life.

Other areas covered in the report include the settlement of constitutional conflicts and actions of unconstitutionality. In addition, there is a brief description of the Supreme Electoral Tribunal and its functions of protecting the electoral process by convening elections, interpreting electoral laws, investigating electoral complaints, guaranteeing free access to the electoral process, scrutinizing the voting itself and declaring the final electoral results.

Introduction of Report of Costa Rica

JORGE RHENAN SEGURA (Costa Rica) said that his country was the first to ratify the International Covenant on Civil and Political Rights. Since the submission of the current periodic report, the Office for the Defence of the Inhabitants had been created. He noted that the report did not conform to the guidelines of such a report and he hoped that in the discussion with the Committee many points could be elaborated upon.

Responding to written questions on the constitutional and legal framework within which the Covenant is implemented, Mr. Segura said the most important measure taken by Costa Rica to disseminate information had been the creation of the Office of the Defender of the Inhabitants of the Republic. The Office

was empowered to respond to any complaint regarding the violation of fundamental rights. When the Defender's office had found a violation of the laws, he would make it known to the Ministry of Justice.

The Itinerant Defender, who reported to the office of the Defender of the Inhabitants, had the responsibility of traveling throughout the country to respond to specific complaints to be presented to the office, he said. The Office of the Defender then would receive complaints and initiate proceedings. He could initiate proceedings, compile information and seek immediate resolution of the problem.

The organization of the Itinerant Defender's office was determined by the Office of the Defender of the Inhabitants of the Republic, he continued. The Itinerant Defender functioned in regional centres and gave guidance to persons making complaints. Mr. Segura then went on to detail the specific procedural powers of both the Office of the Defender and the Itinerant Defender.

In the Office for the Protection of Human Rights, Mr. Segura said there was an office for dissemination of information about the institution. It promoted, through the media, ways and means to protect the rights of inhabitants. It designed and carried out training programmes and conferences on the policies of the Office for the Protection of Human Rights.

NISUKE ANDO, Chairman and expert from Japan, asked what had been done about dissemination of information on the third periodic report?

Mr. SEGURA said that under the Office of the Defender of the Inhabitants of the Republic, there was a promotional programme to provide and publicize information on human rights. There was also an office in the Ministry of Justice that provided information and helped to implement provisions of the Covenant. The current report had been prepared by an office of the Ministry of Foreign Affairs, which had obtained information from different Ministries and other Government offices and non-governmental organizations. There had been institutional "awareness-raising" that the report would be submitted. The media had also been advised that Costa Rica would submit a periodic report. Moreover, the Ministry of Justice had been advised that the report would be submitted. A major deficiency of the system in terms of dissemination of information, however, was that there was no adequate communication channel between the media and the Ministry of Foreign Affairs.

He said there were financial, institutional and legal difficulties that affected the implementation of the Covenant. His country had limited financial means with which to satisfy many needs. A series of changes had to be made to achieve a model, with norms that corresponded to the real needs of Costa Rican society. For example, despite laws for the real equality of women, women still had a long way to go in exercising their legal and political rights. Only four of Costa Rica's Ministers were women and 82.4 per cent of the municipal posts in the country were held by men, thus illustrating a vast gap between the sexes in terms of civil and political rights. The Office for the Protection of Human Rights had appealed to the President-elect to respect the law on social equality of women, by requiring that 50 per cent of such posts be held by women.

Another difficulty concerned Article 7 of the Covenant, regarding officials who abused their authority. Despite campaigns to raise the awareness of authorities, abuse existed. It was not systematic, but occasionally abuse by authorities escaped the control of the people to whom they were responsible. For years Costa Rica had been aware that it was a problem in all societies and in that connection, had proposed a working group on an Optional Protocol to the Convention against Torture by which places of detention would be visited in all countries, with the agreement of authorities in those countries. He expected the working group would complete its work by the end of next year.

Another difficulty that affected the application of the Covenant was a belief or special vision in Costa Rica that human rights were not violated there, he said. In certain social and intellectual circles, the notion existed that the country could not go any further in human rights because society had reached "perfection". But the maintenance of human rights had to be constantly advanced. Costa Rica had several institutions and policies for the promotion and respect of human rights. Those institutions had to be improved and made more efficient.

Regarding activities concerning the rights of women, he said there was an Office for the Protection of Women that reported to the Ministry of Justice, which had been in existence for less than three years. There was also an act for the promotion of equality for women, which incorported international legal instruments regarding the human rights of women. It was the most important instrument in the field and the legal foundation for the defence and promotion of women's rights in Costa Rica.

He said the Office for the Defense of Women recognized the specificity of the rights that it protected. It opened in 1990 with a goal of adjusting the structure of the state and giving women access to most of the public posts in the country. It had a special office where women could register complaints against public administration, as well as obtain advice and information regarding their rights. Statistics indicated that one of the greatest difficulties women encountered had to do with domestic violence. He noted that Costa Rica, like other Latin American countries, has been a patriarchal society for centuries.

Special care was given to present the problems of women in a better light, to inform the public on the rights of women, and to create legislation that would work towards protecting the rights of women, he said. Women should be agents in development, their access to leadership and decision-making posts should be facilitated and they should be protected against violence.

Questions from Experts

JULIO PRADO VALLEJO, expert from Ecuador, said that it was well-known that Costa Rica was a model democracy for countries large and small. It had a long history of defending human rights Violations of human rights seldom occurred in Costa Rica and the Government had vigorously promoted the cause of human rights.

He noted that the report did not, indeed, conform to the guidelines. The Committee would like to know not only about the laws enacted, but specifically about the drawbacks that might exist that prevented the full implementation of the Covenant. The report contained information about the new human rights bodies that had been created. The organization and function of the Office for the Protection of Human Rights was described. Additional information was needed about the actual functioning of those new bodies, he said. How had the bodies acted and what steps had been taken to handle the reported violations of the rights protected by the Covenant?

He also requested further information about the independence of the new Office for the Protection of Human Rights. Did the other bodies within that office report to the Ministry of Justice? he asked. How could they be independent if they reported to the Ministry of Justice, a body that could itself be responsible for the violation of human rights? He referred to a claim that had been submitted by Amnesty International and asked what had been done about it.

According to information the Committee had received, the periodic report was not disseminated to the public, he added. It was important to disseminate that information. What was the reason for the fact that the report was not made public?

He also inquired about the constitutional provision that guaranteed the prominence of the Catholic religion in the State. Had any thought been given to modifying article 75 of the Costa Rican Constitution on the Catholic religion so that equality of all religions would be guaranteed? He also noted that there was a series of measures for the teaching of religion in public schools. Was there any concern about the rule that allowed for the preference being given to the teaching of the Catholic religion? he asked. What were other faiths to do about the education in religion?

ELIZABETH EVATT, expert from Australia, said she was disappointed that the report did not meet the guidelines specified by the Committee. It contained no specific information on the concerns identified by the Committee, which had expressed particular interest in equality issues, particularly the inequality of women. Noting that there was a specific provision to secure equal political participation of women, she asked for further data to show the effect of that law. The importance of involving the community in the process of examining the report could not be overestimated.

ROSALYN HIGGINS, expert from the United Kingdom, expressed disappointment that the report did not follow the format required by the Committee. She recalled that the second periodic report had similar problems. In that regard, this report was even worse. The report never went beyond the initial section and contained nothing specific beyond general observations relating to the Covenant. She appreciated that the delegation had come for a dialogue with the Committee, but it was customary that someone from the leading home ministry in the field of human rights attend the examination of the country report. In the face of a report that was so inappropriate, that presented a "double anxiety".

It was her impression that the media knew nothing of the report, she said.. She felt as though the Government of Costa Rica was exhibiting a certain contempt for the Committee and that Costa Rica was resting on its laurels. She would like to know why the report was so inadequate, why no one from the Ministry of Justice had come before the Committee, why there was no dissemination of information about the report and why it was not made available to non-governmental organizations on request.

ANDREAS V. MAVROMMATIS, expert from Cyprus, said the report was totally unstructured and almost unacceptable. Despite Costa Rica's exemplary record, the report had come at a time when stresses and strains in the country had led to an increase in the violation of human rights there. All the information in the report could have been contained in two pages. He called attention to the fact that the structures described in the report had been felt to be insufficient inasmuch as the country had decided to create another office -- the Office for the Defence of the Inhabitants. What were the problems that could not be remedied under the previous structure that necessitated the creation of another office? he asked. Further, the Committee had received no information from its normal sources, indicating that the report had not been publicly disseminated so that outside comments could be made on its contents.

CHRISTINE CHANET, expert from France, expressed surprise over the report. The delegation from Costa Rica had expressed its awareness that the report in no way conformed to the guidelines of the Committee. It was regrettable, in light of the good efforts made in that country on behalf of human rights, that the Committee was being hindered in its work of evaluating implementation of the Covenant. The inadequacy of the report deprived the Committee of a very useful source of information.

Regarding the participation of non-governmental organizations in drafting the report, she said she had heard that non-governmental organizations did not have the necessary means of communication with the bodies composing the report. She wanted to know if that situation would be remedied. She referred to paragraph 54 of the report on the initiatives of the Office of the Protection of Human Rights and asked if the Office had the power to bring violations to the competent court for remedy. Did the Office have any direct power to bring matters to court? she asked. The Office, she added, had been in existence for three years, had wide powers and had handed down a number of decisions. Yet, information was lacking on how that affected implementation of each article of the Covenant. How was each article implemented in the law?

OMRAN EL-SHAFEI, expert from Egypt, said the image of the authorities of Costa Rica regarding human rights had been very good at every level. Unfortunately, the report created a discrepancy between the reality of human rights in Costa Rica and what was contained in the report. The report provided little information. More than a third of it dealt with machinery for monitoring.

He asked for clarification about the Office for the Defence of the Inhabitants. Was it separate from the General Office for the Protection of Human Rights? What was the membership of the specialized offices? As for

the Assembly of Protectors, was it elected or appointed by a chamber of government? The offices were said to be monitors of government machinery. How did the monitoring actually work? Was there a sequence to the monitoring that led to legislation or action? If it was independent in "technical matters", was it also independent in substantive matters?

MARCO TULIO BRUNI CELLI, expert from Venezuela, also noted that the report failed to meet the Committee's guidelines. However, if that failure could not be avoided and the important information could not be included on the difficulties encountered, he would address the actual content of the report. Regarding the basic content of the report, he said the creation of the Office for the Protection of Human Rights had merit. But, how did the Office operate? he asked How was the work of the Office evaluated and what kind of success had it achieved? What was its relationship with other governmental bodies? What use had the citizens made of each of the protection offices and how efficiently had the offices responded? Was the Office for the Protection of Women the only specialized office that suffered from a lack of resources?

KURT HERNDL, expert from Austria, said the report from Costa Rica was inadequate and, unfortunately, came from a country that had a good record in the field of human rights. The report concentrated on certain organizational methods in the country and did not go into the implementation of the Covenant in Costa Rica. Moreover, the structure of the information contained in the report was confusing. He also expressed concern that the document was not available in Costa Rica.

Regarding the General Office for the Protection of Human Rights, he said there was no explanation of its task. Further, he did not understand how the Office for Protection of Human Rights could be seen in terms of the civil responsibility for the protection of human rights. Civil responsibility of the State was subordinated to the public responsibility of the State. The establishment for the office for the protection of prisoners was very progressive and he would like more information on how prisoners were helped in exercising their right to vote. He also asked for a clarification of the use of the terms Constitutional Tribunal, Constitutional Court and Constitutional Tribunal of Justice.

FAUSTO POCAR, expert from Italy, said that Costa Rica had an excellent history in the field of human rights. He regretted that the report did not follow the Committee's guidelines for reports. Every time Costa Rica reported to the Committee there were important developments and events in the field of human rights in that country. He was encouraged by the development of the General Office for the Protection of Human Rights, which had only been created a few days before the periodic report. However, he would have thought it possible to prepare a report according to the Committee's guidelines. He was sure the delegation would take the Committee's remarks into consideration.

He said he was not clear about the relationship between the Office for the Protection of Children and the courts. He would like more information about the services for the protection of children. The delegation might be

surprised at the importance that the Committee gave to the participation of non-governmental organizations in preparing the report and publicity given to the report. At the examination of the second periodic report, the representative of Costa Rica had said that the Ministry of Foreign Affairs had brought together all the non-governmental organizations in the preparation of the report. He asked for more information on that process.

WALEED SADI, expert from Jordan, also remarked on the human rights successes of Costa Rica and expressed disappointment over the structure of the report. He expected more from a country with such a fine human rights record. As an example of the inadequacy of the report, he pointed out paragraph 4, which made a general statement about the Office for the Protection of Human Rights taking action whenever rights were threatened. The paragraph did not, however, give any specifics about how action would be taken. He went on to say that Article 40 of the Covenant did not specifically call for the dissemination of the report, but the Committee called for such a dissemination and something should be done to correct the situation.

Mr. SEGURA (Costa Rica), responding to the questions on the constitutional and legal framework within which the Covenant was implemented, said he would try to give general responses to the questions, initially. At the beginning of the meeting, he had requested a dialogue. He had presented the report, but he was not the author of the report. He had made it clear that the report had not dealt with specific aspects of the Covenant article-by-article. The problem lay with the authorities in charge of preparing the report, who had been occupied with a large number of tasks and a small staff to perform them.

The form of the report was in no way expressing "contempt", he said. Costa Rica had worked on many human rights issues in the Organization. His country had participated actively in international fora in the field of human rights. The fact that the report did not conform to guidelines did not reflect contempt for the Committee's work. The report had been prepared at the end of 1992. The law for the Defense of the Inhabitants of the Republic had been enacted in 1993. The Government did not have the time and resources to prepare an addendum to the report. Limited staffing in a small country made that impossible.

Responding to questions on the writing and dissemination of the report, he said the press was informed that the report would be presented, but a specific date was not given. The report was available to any organization. It was absolutely public and available to anyone. For economic reasons, it was not published as an official document of the United Nations in Costa Rica.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1299th Meeting (PM)

HR/CT/321
24 March 1994

CONSTITUTIONAL PREFERENCE FOR CATHOLIC CHURCH IN COSTA RICA COULD AFFECT FREEDOM OF RELIGION, SAY EXPERTS IN HUMAN RIGHTS COMMITTEE

Costa Rica Says Preference Is More Theoretical Than Practical; 'Anachronistic' Constitutional Provision Offset by 'Common Sense'

The representative of Costa Rica told the Human Rights Committee this afternoon that the constitutional preference given the Catholic Church in Costa Rica was more theoretical than practical.

In the second part of the Committee's examination of Costa Rica's third periodic report on the implementation of the International Covenant on Civil and Political Rights, a number of Committee members expressed concerns about the effect the constitutional preference given the Catholic Church would have on the freedom to practise and study other religions. The representative of Costa Rica noted that although attempts to change the Constitution had failed, the anachronistic constitutional provision was offset by the "common sense of the people".

Responding to questions about abuses by the security forces, the representative of Costa Rica stated that the absence of a standing army in the country had a great influence on the professionalism of the police and the security forces. Those abuses were investigated by the Ministry of the Interior or the Ministry of Public Security and referred, if necessary, to the courts.

A number of questions were asked about the status of the rural assistance guard, which had last year been accused of grave violations of human rights, particularly against indigenous minorities. The representative of Costa Rica stated that the report on the incident by Amnesty International was inaccurate and that public outrage in Costa Rica over the incident, in which two people had been killed by rural guardsmen, had demanded retribution.

The expert from the United Kingdom inquired about the increase in criminal activity which had generally created great pressure within the prison

(page 1a follows)

For information media—not an official record

system. While asking about the direct effect of that pressure on the prison system, she referred to reports of a few large-scale round-ups of persons, where few had been charged or convicted.

Other questions were put forth in this afternoon's meeting about how the growth in the prison population had affected the problems of pre-trial detention and persons held incommunicado. The representative of Costa Rica replied that there had been an attempt to balance the need to protect the rights of the accused and the demand of the public to imprison those accused of crimes.

In response to earlier requests for more information about the Office of the Defence of the Inhabitants of the Republic, the representative of Costa Rica stated that he felt he had already described the office in his introduction. The expert from Sweden said that he understood the position of the Defender of the Inhabitants as a kind of "ombudsman" in the area of protection of human rights.

The representative of Costa Rica also acknowledged that indigenous peoples and minorities were poorly represented in the legislative assembly and in the cabinet. He noted that there were no representatives of indigenous peoples in the legislative assembly and only four women in a cabinet of 34.

The Committee will conclude its examination of Costa Rica's report tomorrow at 10 a.m.

(page 2 follows)

Committee Work Programme

The Human Rights Committee met this afternoon to continue its examination of the third periodic report of Costa Rica on that country's implementation of the International Covenant on Civil and Political Rights (document CCPR/C/70/Add.4).

The Committee had submitted a number of written questions to the delegation of Costa Rica on the constitutional and legal framework within which the Covenant is implemented. Other written questions involved the right to life, treatment of prisoners, liberty and security of person and the right to a fair trial. The right to privacy, freedom of religion and expression, political rights and rights of minorities were also the subject of written questions by the members of the Committee, experts serving in their personal capacity as monitors of the Covenant

In addition to responding to the written questions, the delegation of Costa Rica will answer oral queries from experts on the contents of the report.

Response to Questions

JORGE RHENAN SEGURA (Costa Rica) said that due to the financial difficulties faced by his country, representatives of the Ministry of Justice had been unable to attend the Committee's examination of the report.

Concerning the question regarding the proliferation of human rights offices, he said that all the human rights offices referred to in the report came under the Ministry of Justice. The Minister, a woman, was a highly qualified professional. She had begun work on a new institution, the Office for the Protection of the Inhabitants. All of the offices under the General Office for the Protection of Human Rights would come under the Office for the Protection of the Inhabitants of the Republic.

As for the competence of the Office for the Protection of the Inhabitants, he said it could begin ex officio investigations or investigate the commission of acts in the public sector, in general supervising law and order. If the Office gained knowledge of an arbitrary act, it must move to bring the victim under the protection of the law. If an official was found to be at fault, he could be subject to a warning and, if no improvement was made, dismissal. The Office would supervise judicial investigations regarding the human rights of citizens and was responsible to the legislature. The functions and activities of the Office had nothing to do with executive power.

There was also a programme for the protection of human rights that would advise the Ministry of Justice in the area of human rights, he continued. It covered the violation of human rights of certain individuals, such as the elderly, handicapped, children, women and various types of workers.

The work of the different human rights protection offices was evaluated through publicly available monthly reports. They presented analyses of admissible cases and explained why other cases were not admissible. The

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offices held meetings with the legislative assembly and with other bodies. He reviewed a number of articles concerned with human rights that had appeared recently in the media and said there had been a series of publications on problems faced by women in the areas of alimony, sexual harassment, and assets with regard to de facto or common law marriages.

In February, the itinerant protection office had visited clinics and hospitals to monitor operations and to see how services were provided to the public. Heads of services and medical directors had been interviewed. The office had made a report setting forth the major problems encountered and making recommendations on how to remedy those problems.

KURT HERNDL, expert from Austria, asked if in Costa Rica the International Covenant was held at the same level as the Inter-American Convention on Human Rights.

Mr. SEGURA (Costa Rica) said they had the same ranking in Costa Rica. He then went on to respond to written questions that had been provided by the Committee on the right to life, treatment of prisoners, liberty and security of person and right to a fair trial.

With regards to the death penalty, he said that since the death penalty had been abolished in 1882 no effort had been made to re-establish it. Costa Rica had not ratified the Second Optional Protocol because the legislative process was slow, and international treaties were often last on the agenda. The report on the Second Optional Protocol was sent to the Costa Rican Assembly several years ago, but it had not been discussed.

On rules governing the use of weapons by police and security forces, he said there were regulations on the use of weapons by officials who bore arms, as well as safety measures to ensure that officials were trained in the use of those weapons. The Ministry of the Interior and the Ministry of Public Security organized human rights courses. There was a weapons law for security forces. Reports were required on the amount and type of weapons in the hands of the security forces. Unfortunately, there had been violations of those rules and regulations. When violations occurred, the Ministry involved investigated and referred it, if necessary, to the courts.

It was necessary to recall that Costa Rica had no army, he said. That situation resulted in a lack of professionalism in the police and the security forces. Enforcement of the rules and regulations was an attempt to compensate for the lack of professionalism.

Responding to a question about torture and cruel and inhuman treatment, he said that, unfortunately, there had been reports of such acts and attempts had been made to punish those responsible. The lack of professionalism was once again a major reason for such abuses. Costa Rica had specific laws forbidding cruel and unusual or inhuman treatment. It had ratified the Convention against torture. Costa Rica was also working towards an optional protocol to that Convention. Confessions obtained under duress had no legal validity in Costa Rica. In the civil code, the Constitution said that a

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judicial order was required to extend incommunicado detention for more than 48 hours and under no circumstances could it be extended for more than 10 days without judicial inspection.

MARCO TULIO BRUNI CELLI, expert from Venezuela, asked about the status of the bill for ratification of the Second Optional Protocol pending in the Assembly. Was there was a plan for ratification? he asked. During and after the war in Nicaragua, because of border problems didn't many of the weapons end up in Costa Rica? Was the existence of those weapons part of the problem of the use of unauthorized weapons by the police? He also asked about the result of the complaints of torture and cruel and unusual punishment. Had their been any prosecutions of the complaints?

JULIO PRADO VALLEJO, expert from Ecuador, said he had previously asked about the powers of the various newly created human rights offices in Costa Rica. It was a pleasure to see so many offices for that purpose. He was not, however, clear about how they functioned and what they could do. Were they empowered to investigate and could they take action against violators in each of the areas covered? he asked. Further, what effort was made by the Government to investigate complaints and punish the guilty? For example, a complaint had been received from Amnesty International about the detention of three Costa Rican politicians. There had been reports of mistreatment, torture and extra-legal extradition. What had been done to deal with those complaints?

He inquired about "home detention". Was something being done to reduce the number of people who were unlawfully detained? he asked. Was it true that the practice and policies of unlawful detention had gotten worse? The example set by Costa Rica of dissolving the army could be emulated throughout Latin America, but there was a problem with the police and he inquired about their training. He went on to say that Costa Rica and Ecuador were two of the greatest banana exporters in the world. He had a report, however, that workers on the banana plantations in Costa Rica were dying from certain fumigations. What was being done about such complaints?

CHRISTINE CHANET, expert from France, said the rural guard had been accused of unlawful actions, including torture and summary executions, particularly of indigenous people. What had become of those who had been arrested in connection with those accusations? she asked. She said she would like more information about the treatment of transvestites, who were often speedily arrested by police. In addition, the rules applicable to pre-trial detention were very vague. Was there a limited duration for such detention? she asked. What was the average length of detention? Were people who were held incommunicado examined in the presence of a lawyer?

She went on to say that Article 14, paragraph 5, of the Covenant stated that anyone was entitled to have a conviction of a crime considered by a higher court. The report stated that currently there were no obstacles to the right of appeal in Costa Rica. How was the principle of the right to appeal translated into law? she asked.

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ELIZABETH EVAAT, expert from Australia, said she would also like to know the outcome of charges made regarding the rural assistance guards. She asked what steps were being taken to ensure that there was no repetition of those instances in which there had been long periods of detention without trial. She would like to have more information concerning the period of time involved before a detainee came before a judge and asked if there were any plans regarding compensation to victims of false arrest.

She commented favourably on the establishment of the Office for the Protection of Prisoners and asked how prisoners made contact with that office. She also wanted to know if there had been any change in the problem of overcrowding in prisons and asked for information about the treatment of women prisoners. What proportion of the prisoners were women? she asked.

BERTIL WENNERGREN, expert from Sweden, said that there were about 3,500 members of the rural guard. How were they recruited and how much training did they receive? he asked. As there were so many who abused their power in February 1992, it seemed as though they were not aware of their responsibilities. He would ask the same questions about the civil guard, which numbered about 6,000. Were there other security forces? How, as a whole, were the police being organized and trained? Since there were no military forces, might it be necessary for the police to take on some functions normally ascribed to the military?

How far had the Government proceed in regard to humanizing the prisons? he asked. How was the prison system organized and how many prisons were there? Were there prisons in the rural areas? Did the office for the protection of prisons cover all prisons and how did it function? Did the Protector of the Inhabitants of the Republic also protect the inhabitants of the prisons? Were there particular prisons for females and for juveniles?

ANDREAS MAVROMMATIS, expert from Cyprus, asked about the rules of persons in detention and the use of force. Was there an obligatory use of proportionality in the use of force? he asked. For example, was there a rule for the use of tear gas before firearms, then for the first use of force to be disabling rather than lethal and so forth? He asked for further information on the security forces, who had attained a kind of "notoriety", he said.

ROSALYN HIGGINS, expert from the United Kingdom, mentioned the link made by Costa Rica's representative between the lack of professionalism in police and the lack of a standing army. She asked for a more complete explanation of the connection between the police and the security forces. Why couldn't professionalism in the police forces be developed without a military reference? she asked. She went on to say that she would like to hear more about the legal regime of pre-trial detention. An increase in criminal activity generally had created great pressure within the prison system. What were the policies connected with the increased pressure on the prison system? Was there an increase in prison terms or an increase in prison facilities?

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There had been, on a few occasions, large scale round-ups of persons, she said. At the end of the round-ups, few were charged or convicted. On what legal premise were the large scale round-ups conducted?

Mr. SEGURA (Costa Rica) said that the Amnesty International report on Costa Rica last year had complained of a series of violations of human rights on the part of the rural guard in the region of Limon. Two indigenous persons had lost their lives at the hands of the rural guard. The rural guards involved were arrested, investigations were carried out and the people who had participated in those ugly actions were on parole. Since they did not have a criminal record, they were set free conditionally. At the time that Amnesty International made its allegations concerning the rural guard, the Government had tried to organize a debate in the media and academia to discuss what was being done in terms of human rights, so that what had happened would be seen in its true light. What Amnesty International had said about the incident was not quite true.

He called the Committee's attention to the national discussion being held to clarify the situation regarding arms trafficking. Arms trafficking had been rapidly controlled by the State and there had not been too many problems in that regard. Forbidden weapons included those that fired more than one bullet at a time; that fired explosive charges; mobile tanks; armoured cars; launching weapons; hand grenades; toxic weapons; gases; and chemical compounds that produced irreversible mental and physical reactions.

CHRISTIAN TATTENBACH (Costa Rica) said the fact that Costa Rica had no standing army should be clarified. In case of war or aggression or in the defence of the hemisphere, the Government could raise an army. It was not accurate to say that Costa Rica did not have security forces. Costa Rica was a sovereign State that must guarantee the sovereignty of the country and defend its air, seas and territorial space. It had a civil guard that was less than an army and more than a police. Its functions went beyond those of a traditional police in other countries.

Costa Rica did not have military law during peace time, he continued. There was no legislation that protected the members of the civil guard from responsibility for the acts they committed. They must answer to the courts for any action outside the law. The civil guard only used light weapons and did not have a single tank. They had light aircraft to patrol the coasts and on the sea they had only patrol boats. There was no offensive weaponry. All the weapons were defensive.

The rural assistance guard was so named to make it a civilian body, he said. According to the law, they were asked to provide assistance services rather than security services. They offered veterinary, medical and pediatric assistance. Sometimes, however, intentions were one thing, reality another. He stressed that in reaction to the abuses in Limon, the entire country had demanded retribution.

Long detention before a final sentence was handed down happened in every Latin American country because the administration of justice tended to be slow, he continued. There were a large percentage of people who had not been

sentenced in Costa Rican jails, but the number was much lower than in other countries. Ironically, the usual complaint among the Costa Rican public was that prisoners were set free right away. A civil guard member had to have at least a high school education and no criminal record. They had to receive some training, because they had complex tasks to be carried out. There were civil guard academies and some of the officers received training abroad. The training emphasized police activities and human rights.

Mr. SEGURA said that the office for the protection of detainees tried very hard to protect the rights of those persons. It also tried to give the right kind of training for law enforcement officials. There was no compensation for persons detained unlawfully. Regarding the problem of overcrowding, he said his Government had worked out a system of permits for all those who had established good conduct in the prison system. A high percentage of the prison population was part of that programme. He said he had no figures on the percentage of women in the prison system. He repeated that persons held incommunicado could not remain so for more than 10 days. The persons being thus held would be allowed to have books and perform civil acts that did not disrupt the criminal proceedings.

Mr. TATTENBACH said there had been much exaggeration in reporting the use of pesticides on the banana plantations in Costa Rica. The Government and the fruit producing companies had very strict rules about the use of pesticides. There had been a case of improper use of pesticides that had harmed a number of Costa Rican workers. The extent of the damage had not been immediately discerned. Instances of infertility had been associated with the incident. That incident had led to plantings without any pesticides -- a kind of organic planting. It was impossible, however, to produce bananas properly without fertilizers and pesticides. The one case had led to quite a "hullaballoo" and led to stricter control over the use of the pesticides.

Mr. SEGURA said the Office for the Protection of the Inhabitants provided legal services for people in home detention. Since there was no standing army, students in the university were required to do social service. Law students were required to serve 18 months in legal services, providing services free of charge. Some of those students entered into practice in one of the prisons of the country. The problem of humanizing prisons was being considered as a part of the programmes being presented by the Office for the Protection of Detainees.

Mr. SEGURA, then turned to written questions on the right to privacy, freedom of religion and expression, political rights and rights of minorities. He said the Roman Catholic Church had a certain privileged treatment in Costa Rica, although that privileged position did not oppose other religions that supported universal morality and good customs. Freedom of religion was fully guaranteed. One had to be realistic, however. The provision in the Constitution was anachronistic, but attempts to change the provision had been unsuccessful. The Catholic Church and many other groups had been opposed to any change.

Mr. TATTENBACH added that the provision was anachronistic, but it was more or less offset by the "common sense" of the people. There was no concordat between the Church and the State, nor had there been for many years. There was considerable separation between Church and State. The State connection to religion was more theoretical than practical.

Mr. SEGURA, responding to additional written questions, said the code of criminal procedure had allowed judges to order wire-tapping in certain cases, but that law had been declared unconstitutional. There was a draft law currently in the legislature that dealt with the subject, but it had not been acted upon. The bill was intended to be in accord with the Constitution and enumerated the various crimes where such wire-taps could be used and declared certain procedures protected, such as communication between lawyer and clients. The draft also concerned itself with the seizure and consideration of private documents and would balance public and private interests. However, the bill had met with great opposition in the legislature. Electronic tapping devices did indeed exist to record private phone conversations, faxes, mobile phones and the internet system.

Minorities were protected, as described in the introduction to the report earlier today, he said. Minorities were unfortunately poorly represented in public bodies. There were no representatives of indigenous people in the legislative assembly. In the appointed cabinet of 34, there were only four women and one black person, who also happened to be a woman.

JULIO PRADO VALLEJO, expert from Ecuador, asked what was being done about discrimination against non-Catholic teachers in relation to teaching religion.

ELIZABETH EVAAT, expert from Australia, said that the Committee had been told that workers preferred solidarist unions because the unions were not democratic. The International Labour Organisation (ILO), however, contested that assertion. The situation as it existed seemed to suggest that there were penalties for trade union activities, which would impinge on the right to freedom of association. Agricultural workers were especially vulnerable in that situation. The ILO had asked the Costa Rican legislature to protect the rights of agricultural workers. Had any action been taken in that regard? she asked.

She expressed particular concern about agro-industrial workers in the coffee plantations. Landowners maintained workers on short-term employment to avoid paying benefits. There were also charges that administrative officials collaborated with landowners to allow for lower wages, longer hours and poorer work conditions and that when workers tried to organize, they were dismissed. Fear of retribution made workers reluctant to complain. What did the Government do to help those people? she asked. What mechanisms were available to them to affect a change in their situation?

KURT HERNDL, expert from Austria, asked if the Government actively supported the solidarist associations. Those associations had a distinct advantage, in that trade unions needed a minimum of 20 members to be formed, while solirdarist associations needed only 12. The ILO had spoken of

interference in trade unions and anti-union activities. The Committee would like to have more information on compliance with article 27 of the Covenant, which concerned ethnic, religious or linguistic minorities. Costa Rica's second report had not adequately discussed the protection of the rights of minorities and it had been hoped that the third report would tell the committee more about the protection of the rights of indigenous minorities.

ANDREAS MAVROMMATIS, expert from Cyprus, said attempts to diminish the rights of trade unions was becoming a regional phenomenon. In many ways, it eroded efforts over recent decades towards social justice.

BERTIL WENNERGREN, expert from Sweden, asked if there had been any redrafting of trade union rights legislation that was not in accordance with international standards. Regarding freedom of religion, he said that article 75 of the Costa Rican Constitution was not in accordance with article 18 of the Covenant, because it put the limitation of freedom of religion on unpermissible grounds.

ROSALYN HIGGINS, expert from the United Kingdom, asked if trade unionization was permitted in the public sector and which public sector employment prohibited striking. What legal protection was there for collective bargaining? she asked. Was dismissal for forming or joining a union forbidden?.

She had understood the representative of Costa Rica to say that his country had made a report on minority rights to another treaty body and, therefore, it was not worth relating that information to the Committee on Human Rights. In her nine years on the Committee, she had never heard such a deliberate decision not to respond to something for which the Committee had specifically asked.

MARCO TULIO BRUNO CELLI, expert from Venezuela, said that in Costa Rica there was a group of aliens that did not have the status of refugees, but who were, in fact, refugees. It was a relatively large community and they constituted economic refugees. What happened to them from the standpoint of labour, the status of children born there and treatment by police? he asked. How many were there?

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1300th Meeting (AM)

HR/CT/322
25 March 1994

COSTA RICAN REPORT LEAVES IMPRESSION COVENANT CONSIDERED UNIMPORTANT, SAYS EXPERT FROM CYPRUS IN HUMAN RIGHTS COMMITTEE

Costa Rica's Representative Admits Criticism Justified

Although the International Covenant on Civil and Political Rights had been described as "the Magna Carta of civil and political rights", the impression was left that it ranked very low in the eyes of the Costa Rican Government, the expert from Cyprus said this morning.

Addressing the Human Rights Committee as it continued its consideration of Costa Rica's third periodic report, he said that even if the Government had addressed certain issues in other bodies, in signing the Covenant it had undertaken an obligation to report on those matters to the Committee.

In expressing that view, he joined the other expert members of the Committee in insisting that such reports must be submitted according to the specifications required under the Covenant. The expert from France said the next periodic report should be drafted by legal experts in the field of human rights and should be disseminated to the media.

Along with the other experts who spoke today, she paid tribute to Costa Rica's human rights record. Nevertheless, the failure to submit reports in the required form hampered the Committee's work in monitoring compliance with the Covenant.

The representative of Costa Rica said the members were right and it was painful to have to be told such things twice. He would take the Committee's observations back to the appropriate Ministry, in order to deal with the problem.

Responding to questions raised at earlier meetings, he said the Government had enacted an entire series of new laws governing union affairs and that workers in his country were entitled to strike except in certain clearly defined cases. In addition, the Government had dispatched monitors throughout the country to monitor the situation of employers who sought to circumvent social security and other labour laws.

(page 1a follows)

The Government had also enacted a law aimed at promoting the social equality of women, he said. Nevertheless, the Parliament, which would enter into effect in May, would be comprised of 87.6 per cent men and 12.9 per cent women, with no representatives from the indigenous population. That electoral inequality was one problem which prevented full implementation of the Covenant.

Statements were also made by the experts from Ecuador, Austria, Venezuela, Mauritius, Sweden, United Kingdom, Australia, Jamaica, Senegal and Egypt.

The expert from Hungary, Tamas Ban, also made a brief statement. He was recently elected to fill the unexpired term of Janos Fodor, also of Hungary.

The Human Rights Committee will meet again at 3 p.m. today to consider its consideration of recommendations concerning article 27 of the Covenant, which deals with the human rights of ethnic, linguistic and religious minorities.

(page 2 follows)

Work Programme

The Human Rights Committee met this morning to continue its examination of Costa Rica's third periodic report on the measures it has adopted to implement the International Covenant on Civil and Political Rights (document CCPR/C/70/Add.4). The report focuses on the establishment of a General Office for the Protection of Human Rights. In his introduction of the report yesterday, the representative of Costa Rica called attention to the new institution concerned with the protection of human rights, the Office of the Protector of the Inhabitants of the Republic. (For more details, see Press Releases HR/CT/320 and 321 issued 24 March.)

Statement by Costa Rica

CHRISTIAN TATTENBACH (Costa Rica) said he would try to provide an accurate overview on the conflict between the trade unions and the solidarity movement. The solidarity associations did not share any of the characteristics of the trade unions. They associated themselves with the workers and businesses, thus creating a feeling of solidarity in the working sector which, to a certain extent, prejudiced the activities of the trade unions. How could the Government of Costa Rica impede such a movement? he asked. The spirit of solidarity with the businesses was met with some reluctance by the trade unions. If the Government was to restrict the solidarity movement, that could be considered as a restriction of the right of free association.

The right that allowed the formation of trade unions also implied the right to refrain from joining a union, as a matter of individual choice, he said. The unions had called on the Government for greater job guarantees, among them that certain individuals not be fired, that the right to strike be ensured, and that the unions go along with collective bargaining. All that had been done. The solidarity associations could not make inroads into the union sector, fighting for job and work improvement. They had no representation on the National Salary Council and did not enjoy all the legal advantages granted to union leaders. It was only in an indirect fashion that they were having an impact on the union movement.

JORGE RHENAN SEGURA (Costa Rica) said that last year, in the face of accusations made by United States unions and its Congress, the Costa Rican Government enacted an entire series of new laws governing union affairs. They were adopted by consensus and submitted to the International Labour Organisation (ILO), which determined that they were in consonsance with their recommendations. All the workers in Costa Rica were entitled to strike, except in certain clearly defined cases. Collective bargaining agreements were broadly disseminated and were in no way limited under the Costa Rican legal order.

As to measures to control employers who hired workers on a temporary basis to skirt social security and other labour laws, he said the Ministry of Labour dispatched inspectors throughout the country in order to strictly monitor that situation. There might be abuses in achieving such control and

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monitoring, but there were strict laws to ensure that employers lived up to labour legislation. On refugee-related problems, he said foreigners enjoyed the same rights and social duties as citizens. However, they could not enter into the country's political affairs and might not resort to diplomatic intervention, except as provided in international conventions.

Most of the Central Americans who moved into Costa Rica during the 1980s had fled from armed conflict and could not be considered refugees, he said. Most had very little schooling and faced health problems characteristic of countries having little development. The Costa Rican Government had established centres to teach work skills and provide health care. Institutional machinery was established to ensure that they would become an integral part of the country. The children of the refugees had automatically become citizens of his country.

The law for the promotion of the social equality of women aimed at ensuring equal rights for men and women as an obligation of the State, he said. That had particular ramifications for the electoral process. One problem that prevented implementation of the Covenant was that women had not yet attained total equality in their civil and political rights. The percentage of women in the Cabinet and the Government was very low. The Parliament, which would take effect in May, would be comprised of 87.6 per cent men and 12.9 per cent women, with no representatives from the indigenous population.

On the rights of minorities, he said 99.2 per cent of his country's population spoke Spanish, and most of the indigenous people also spoke Spanish. The Government was not hiding or withholding information. The same information could not be provided repeatedly in different United Nations forums. Religious classes were provided to Roman Catholics. However, the Government also encouraged alternative classes for those not wishing to attend religious education. For example, they might attend a class on general culture, in order to foster understanding of the world's great religions. Unfortunately, that was not available throughout the country.

On the protection of older persons, he said Costa Rica's population was basically young, with 75 per cent of the population under 35 years of age. Nevertheless, the Government had established a programme to protect the elderly.

Questions of Experts

JULIO PRADO VALLEJO, expert from Ecuador, said Costa Rica had made great and enviable efforts to organize a democratic system of laws. He hoped that it would also make efforts to investigate those problems that did exist. He hoped that the delegation would send the Committee additional information on the implementation of the Covenant. He said there should be full religious freedom and Costa Rica should continue to work to ensure full implementation of human rights.

KURT HERNDL, expert from Austria, said there was still some confusion about the report. Costa Rica was a State party that was known for its concern for human rights, but the real problem was the nature of the report. The second periodic report presented four years ago had not been prepared in full conformity with the Committee's guidelines. Members had expressed the hope that the third periodic report would give more information on the evolving practice in the country. If there were bureaucratic problems in coordinating various central authorities, there should be a central coordinating editor who would be familiar with the system to advise the contributors to the report on how they should proceed. The delegation could turn to the Human Rights Committee for help in training officers involved in drafting the reports. Next time, the Committee could not accept a report that did not adhere to the guidelines and did not reflect the general situation of human rights or the extent to which the Covenant had been implemented.

MARCO TULIO BRUNI CELLI, expert from Venezuela, expressed appreciation for the replies presented by the representatives of Costa Rica. The report itself was positive and the current dialogue even more so. However, the next report should be crafted in accordance with the accepted guidelines. Those guidelines help ensure the effective implementation of the Covenant. It should also disseminate such information among the general public and relevant non-governmental organizations, so that there might be some feedback for the Committee to consider. The prospect of ratification of the Second Optional Protocol by the Costa Rican legislature was a matter of great importance. The fact that such instruments were automatically transformed into domestic legislation was also significant.

CHRISTINE CHANET, expert from France, welcomed the efforts of Costa Rica's representatives to continue the dialogue with the Committee, although there had been some problems in communication. Generally, that happened with countries that had something to hide, but that was not the case with Costa Rica. Perhaps there was a misunderstanding about the role of those bodies charged with guaranteeing respect for the treaties. The same thing had happened with the country's second periodic report, which, like the present report, was not presented in the form the Committee required.

The Committee could not be told that answers on minorities had already been given to the Committee on Racial Discrimination, since that body dealt with an entirely different legal instrument, she said. The Covenant spoke, in particular, of the protection of ethnic, linguistic and cultural minorities. Specific information was needed on the protections which were guaranteed to them under the Covenant. The next periodic report should be drafted by legal experts in the field of human rights and should be disseminated to the media. The non-governmental organizations must be allowed to have access to that report and to participate in its drafting.

RAJSOOMER LALLAH, expert from Mauritius, said Costa Rica's second periodic report had not allowed the Committee to engage in a systematic discussion. It was unfortunate that a misperception on the part of Costa Rica about its duties under article 40 of the Covenant had resulted in another unsatisfactory report. The Committee must request that the report be compiled

in accordance with the guidelines. The report did little justice to the situation of human rights in Costa Rica. Countries that were poorer and smaller were able to submit reports that adhered to the guidelines.

BERTIL WENNERGREN, expert from Sweden, said the main reason that the dialogue with Costa Rica had not been fruitful was because of the unsatisfactory report. When members asked questions, it was not acceptable to refer to answers given to other committees. The Human Rights Committee was independent.

The labour legislation in Costa Rica was not on a par with other legislation in the country, he said. It was outdated and did not meet International Labour Organisation (ILO) requirements. He had heard no answer to his question about whether any consideration had been given to redrafting labour laws. Further, the laws regarding freedom of religion were formulated in a way that unacceptably limited that freedom. Civil servants could not be expected to take an oath "before God". That was not in accordance with article 18 of the Covenant.

ROSALYN HIGGINS, expert from the United Kingdom, said the second periodic report had been late and not according to the guidelines. The third report was late and even less in accordance and non-governmental organizations had protested that they had not been provided with a copy of the report. Under the Covenant, international scrutiny was required. The role of the Committee was to encourage those who were progressing and to help those that might be having problems. The Committee could only do its duty if problems were shared with it in a systematic fashion.

She had received no answers to the questions she had posed, she continued. Regarding the refusal to supply answers on the situation of minorities, she said there was still a duty to report to the Human Rights Committee, even if there might be some overlap with other committees. In the time the representative of Costa Rica had taken to tell the Committee that his country had reported to another committee, he could have addressed some of the Committee's concerns. It was not a question of hiding things. Rather, under the Covenant the State party had a duty to provide the information as it related to the Covenant, in this case to article 27.

ELIZABETH EVATT, expert from Australia, said Costa Rica was respected as a progressive country, which accorded great importance to the protection of human rights. However, the report did not provide measures taken since the last report in a manner which would be of use to the Committee. Neither did it include information on progress made in an accessible form. That could have been done, as the information was readily available and could have been provided. The oral presentation, while useful, was not a substitute for a written report and did not fully respond to all of the questions that had been raised.

For example, she had asked yesterday about the situation of workers in small agricultural enterprises who were effectively denied the right to organize through dismissal and blacklisting. The response concerning the

Ministry of Labour demonstrated that it was not doing its job adequately in protecting those individuals. Although it was positive that Costa Rica had diverted resources away from a permanent standing army, the failure to protect freedom of association, particularly among workers in small enterprises, was a matter of concern.

Although there were excellent new laws on gender equality, they must be realized in practice, she said. Questions concerning pre-trial detention and abuses of detainees also needed further attention. Free and frank discussions should take place with individuals and non-governmental organizations in the preparation of Costa Rica's periodic report. Future reports should do the justice to Costa Rica that it deserved in the field of human rights.

ANDREAS V. MAVROMMATIS, expert from Cyprus, said the form of the report and the lack of specificity in some of the replies given made it difficult to adequately consider the situation in Costa Rica. The next report should correct that problem. Although the Covenant had been described as "the Magna Carta of civil and political rights", Costa Rica had left the impression that it did not consider it of great importance. Even if the Government had addressed certain issues in other bodies, in signing the Covenant it undertook an obligation to report on those matters to the Human Rights Committee.

LAUREL FRANCIS, expert from Jamaica, said the Committee was agreed that Costa Rica had a high level of compliance with its obligations under the Covenant, but it had not followed the Committee's guidelines with regard to its report. The Committee would expect full compliance with the fourth periodic report.

Despite Costa Rica's high level of compliance with the Covenant, there must be, as in all countries, a "blind side", he continued. In every country, the police and the penal system were very sensitive areas. The Committee expected the report to disclose information about what was happening in those fields. How many officers had been punished for breaching regulations? he asked. He was sure that if Costa Rica had told the Committee what was happening, much would have been accomplished with regard to the guidelines.

BIRAME NDIAYE, expert from Senegal, said Costa Rica's silence on certain questions was a matter of great concern to the Committee. He expressed particular concern about the lack of information on minorities. He still had no information about the situation of Costa Ricans of African descent, except that they constituted 5 per cent of the population. He recommended that when the representative went home, the public be informed about not only the content of the report, but the comments of the Committee. While he understood that the Government might consider it expensive to publish the report, a few photocopies for non-governmental organizations would not ruin Costa Rica.

WALEED SADI, expert of Egypt, said that in the future the delegation should include people who had prepared the report, so that there could be a proper dialogue. The present dialogue was handicapped because the representatives before the Committee had not participated in the compilation of the report.

NISUKE ANDO, expert from Japan and Chairman of the Committee, said the Committee needed a more complete written report to heighten the value of the dialogue. The question of human rights depended on the people and the Government that represented them. He was certain that the Government of Costa Rica had the power to overcome the problems raised by the Committee.

Mr. TATTENBACH (Costa Rica) said he would take home the critical remarks made by the Committee. The members were right and it was painful to have to be told such things a second time. All of the observations would be referred to the appropriate Ministry, so that an effort could be made to deal with the information. He noted that Costa Rica was on the verge of a change in Government and at such times, people gave less time to reports required by those outside the country. He was committed to ensuring that those involved in the situation fulfilled their obligations.

Mr. SEGURO, (Costa Rica) said his Government would work hard to see that the Committee's observations were transmitted.

The Chairman said the Committee would adopt a written report that would be made public and supplied to the Costa Rican Mission.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1301st Meeting (PM)

HR/CT/323
25 March 1994

HUMAN RIGHTS COMMITTEE ADOPTS DRAFT GENERAL COMMENT TO ASSIST STATES IN PROTECTING RIGHTS OF ETHNIC, RELIGIOUS, LINGUISTIC MINORITIES

The Human Rights Committee this afternoon completed its work on its draft general comment to assist States parties in implementing article 27 of the International Covenant on Civil and Political Rights, which concerns the rights of ethnic, religious and linguistic minorities.

In adopting the final four paragraphs of that text, the Committee stressed that the rights accorded to those minorities must be respected as such and not confused with individual rights already protected by the Covenant.

It emphasized that positive legal measures might be required to protect the enjoyment of cultural rights. Such rights might also encompass a particular way of life associated with the use of land, particularly in the case of indigenous peoples. States parties had specific obligations to ensure respect for those rights and should indicate in their reports the measures they had adopted to that end.

The Committee will meet again at 10 a.m. Monday, 28 March, to consider the third periodic report of Mexico.

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For information media - not an official record

United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1302nd Meeting (AM)

HR/CT/324
28 March 1994

MEXICO INTRODUCES THIRD REPORT TO HUMAN RIGHTS COMMITTEE

Effectiveness of National Human Rights Commission Questioned

Human Rights Committee experts this morning questioned the effectiveness of Mexico's newly established National Human Rights Commission, stating that authorities did not comply with the Commission's recommendations.

In its examination of Mexico's third report on the measures it has taken to implement the provisions of the International Covenant on Civil and Political Rights (ICRC), Committee members stated that the Commission itself had expressed frustration that while many complaints had been filed, few of its recommendations were being followed.

The representative of Mexico, who introduced the report this morning, also reviewed measures that had been taken since the report had been issued. He described a number of "important reforms to the Constitution" that had been adopted, including that of raising the National Human Rights Commission to a constitutional level.

Experts this morning also raised questions about Mexico's "governability clause", which they said could give a majority of votes to a party that, in fact, represented only 35 per cent of the people. Concern was also expressed about the appropriateness of including, in a report to the Human Rights Committee, a paragraph that referred to using the protection of human rights as a pretext for interference in the internal affairs of States.

Experts also questioned whether there had been an investigation and prosecution of human rights violations following the armed rebellion by the Ejèrcito Zapatista Liberación Nacional in Chiapas.

The Committee, which began its fiftieth session one week ago, will meet again at 3 p.m. today to continue its examination of the report of Mexico.

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For information media—not an official record

Work Programme

The Human Rights Committee met this morning to consider the third periodic report submitted by Mexico on the measures it has taken to implement the provisions of the International Covenant on Civil and Political Rights (document CCPR/C/76/Add.2).

As general background, the report states that Mexico has a population of 81,140,922, 50.9 per cent of whom are female and 38 per cent of whom are under the age of 15. While population growth has been declining, life expectancy has increased to approximately 70 years of age. Almost one-third of the population lives in the cities of Mexico City, Guadalajara and Monterrey. According to its Constitution, Mexico is a representative, democratic and federal republic composed of 31 states and a Federal District, where the Federal Government is located. The official language is Spanish, but 7.5 per cent of the population over five years of age speak an indigenous language, of which there are more than 56.

According to the report, the International Covenant forms a part of Mexican law and can serve as the basis for any legal action. Civil and political rights are governed by the country's secondary legislation, which includes the Civil Code, the Penal Codes, the General Population Act and the Federal Electoral Code. Laws are implemented by Government administration at three levels -- federal, state and municipal. To guarantee their rights, Mexicans have available an entire judicial system at all levels of jurisdiction, culminating in the application for protection through the action for amparo, which protects all Mexicans and foreigners against any act by authority which infringes their civil and political rights.

Since its last periodic report, Mexican constitutional law affecting property rights was amended to bring an end to agrarian distribution. Following large-scale land distribution conducted under the 1917 Constitution, no more land remains to be distributed. Under the changed law, peasants may form associations and authorize the use of their lands by third parties. It further established a new constitutional status for relations between the State and the churches, providing that religious institutions may not own more real estate than is necessary for their purposes.

The report goes on to say that Mexican society had been developing and changing in a manner consistent with the Committee's general comments and many of those changes had made it necessary to adapt legislation to ensure all individuals their rights. The principles underlying the changes are: the strengthening of democratic freedoms; reaffirmation of the secularization of society; endorsement of secularism and tolerance as collective values; recognition of the multi-cultural make-up of the Mexican nation; prevention of the return of unfair privileges for all time; and the adoption of clear and transparent rules.

Of most significance was the amendment which gave constitutional status to the National Human Rights Commission and provided for the establishment of human rights commissions at the local level within a year. The Commission,

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established by presidential decree in June 1990, deals with violations of human rights in general, carries out investigations where it sees fit, evaluates the evidence and makes appropriate recommendations.

Changes had also been made to guarantee to the Indian peoples the right to have their legal practices and customs taken into account in dealing with all agricultural questions. Mexico's legislation further provides that women shall have equal rights in the exercise of civil and political rights, access to education, employment and remuneration, and guarantees of social security. It emphasizes that men and women have equal responsibilities in family life and provides for the establishment of social services for the care of children.

In regard to Mexico's compliance with article 5 of the Covenant, the report states that there has recently been a "trend towards interference in the international affairs of States under the pretext of protecting human rights". In the view of the Mexican Government, "such interventionist aims are inconsistent with article 1 of the Covenant", which refers to the self-determination of peoples.

The report states that although Mexico's constitution provides for capital punishment, in practice it has disappeared from ordinary Mexican justice. While there is no specific proposal to amend the relevant article, the death penalty has not been incorporated into Mexico's penal codes and there is a strong movement in favour of deleting all references to it from the Constitution.

All of the country's inhabitants can own and bear firearms, the report states. The Department of National Defence controls, supervises and authorizes the use of firearms, explosives and detonating devices and regulates the allocation of weapons and its monitoring. Where a member of one of the police forces is involved in an offence, such as the abuse of authority or intimidation, the penalties provided for the general public shall be increased by up to one half and the person concerned shall be dismissed and prohibited from holding any other public employment function or office for a period of one to eight years.

In response to questions about the alleged disappearances and deaths caused by or with the cooperation of the police, the security forces or other authorities, the report states that the Government had set up a Programme on Alleged Disappearances to look into such cases. According to the report, none of the cases clarified and recorded as disappearances between 1990 and 1991 can be ascribed to political motives. The report cites the cases of a police officer who was convicted in 1989 of murdering a journalist and a former commandant of the Federal Criminal Investigation Service, who was charged with the responsibility for the assassination of a lawyer in 1991.

The rate of infant mortality is decreasing, although there are still groups where such preventable deaths occur at high rates, the report states. A noteworthy development has been the establishment of the Mexican Social

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Insurance and Solidarity Institute. Although health care is provided to 13.5 million persons, the coverage is insufficient due to problems of dispersion, lack of communication and access.

New political, economic and social conditions in Mexico have led to a systematic reform of the country's criminal law aimed at ensuring full protection of human rights, the report says. The Office of the Attorney-General had been reorganized and, as part of its modernization, an Integrated Detainee Information and Care Programme was created under the responsibility of the Directorate for the Care of Detainees and Addicts. The Directorate is responsible for implementing measures to ensure humane treatment in the administration of justice and to direct, supervise and monitor the implementation of national programmes for the care of victims of offences, as well as addicts and detainees. In 1992, the Attorney-General set up the Comité Ciudadano Plural to monitor the activities of the Attorney-General's office and to see that it operates within the law.

The report states that, as a proportion of all complaints of alleged human rights violations, instances of torture had dropped from first to seventh place. To date, 266 public servants have been disciplined and criminal proceedings were instituted in 95 of those cases.

In recent years various problems associated with juvenile offenders, vagrants and drug addicts have become increasingly acute in the large cities, particularly in the Federal District. The authorities have taken measures to help street children and to give them medical and legal aid and enable them to be reintegrated into society. Further, the National Human Rights Commission has drawn up an Indigenous Groups Programme, with a view to asserting the human rights of indigenous people. The programme provides for the publicizing of human rights, provision of information on the aims and function of the Commission and direct receipt of complaints of human rights violations. The report points out that most of the complaints received are the result of land disputes.

The Commission has also introduced a programme for Mexico's prison system. Attention has been given to numerous complaints and oral petitions concerning seriously threatened or actual violations of human rights of detainees. During the first year and a half, the Commission received information on 13 cases in which the plaintiffs obtained satisfaction. The Commission has recommended that: overcrowding be ended; decent facilities be provided; prisoners be released in a timely fashion; legal treatment be individualized; powerful prison gangs be ended; and a campaign be started to end corruption and the abuse of power.

The report calls the Committee's attention to the establishment of a Permanent Programme for Legal Services and Guidance to the Community to service clients without means. The National Human Rights Commission has also established a programme concerning attacks on journalists, which has published details on the progress made in the investigation of events when representatives of the media have lost their lives. In Mexico, the report goes on to say, the right of assembly is guaranteed as a human right, but

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anyone exercising the right to demonstrate must do so in a "responsible manner". In the Department of Security and Highways, great importance is attached to developing awareness among, and to training specialist operational units responsible for intervening in demonstrations.

Introduction of Third Periodic Report of Mexico

MIGUEL ANGEL GONZALES FELIX, Coordinator of Human Rights and Narcotics of the Ministry for Foreign Affairs of Mexico, said that due to the recent regrettable developments in his country it was not possible for the head of the delegation, the Director of the Federal Electoral Institute, to be present.

The third report of Mexico had been formulated in conformity with the Committee's guidelines, he continued. Important reforms to the Constitution had been adopted, raising to a constitutional level the National Human Rights Commission. The work of the Commission has been intense and fruitful, publishing reports that showed the development of a variety of programmes in the fields of indigenous affairs, injury to journalists, presumed disappearances, penal affairs, the situation of detainees, defense of children, workers rights, health and other areas.

To guarantee the principle of the rule of law, he said, the federal penal code had been reformed to establish a general range of measures to protect human rights, such as making it obligatory to provide a defence lawyer during an interrogation, establishing a requirement that no person could be detained without a warrant and that all public officials must respond to the requirement of reporting before the National Human Rights Commission. A new federal law prohibited torture and punished those who administered it. It invalidated evidence obtained through torture, raised the punishment for torture and provided for the compensation of the victim or his family. Efforts were being made to consolidate a professional police corps.

Other reforms affected indigenous communities, whom, he said, lived in very different conditions from the rest of Mexico. The reforms took into account the demographic growth of indigenous people, 96.5 per cent of whom lived in rural areas that were considered to be disadvantaged, with conditions of marginality and extreme poverty. The law attempted to consolidate the legal framework for the protection of human rights and provided for appropriate guarantees to the indigenous people. The Government had also created a National Commission for Integrated Development and Social Justice for Indigenous Peoples to promote, protect and support the integrated development of indigenous people and to guarantee the complete administration of justice and to protect their rights.

He said that the recent armed rebellion in the State of Chiapas had had the participation of the indigenous people. For centuries, hardship and poverty had prevailed in that region. The President of Mexico had declared that there was no difference among the Mexican people that could not be resolved through peaceful means. The National Commission for Human Rights was established in the zone and on 22 February produced a report on the

situation. An amnesty was declared, the President designated a Commission for Peace and Reconciliation and 140 non-governmental organizations, national and foreign, had visited the area.

Following a dialogue between the Commission for Peace and Reconciliation and a delegation of the Ejército Zapatista de Liberación National, a formula for peace in Chiapas was announced that defined an agreement for peace and the end of the hostilities. At the end of the dialogue, there was a final document that proposed 33 commitments for democracy, among them a general law for the protection of rights, electoral reforms, the recovery of state economic benefits, the restoration of land, and the establishment of hospitals, roads and educational facilities.

He went on to say that during the period of the third report there had been a revision of electoral legislation and changes were still occurring. Electoral systems had been changed and the right to self-determination had been strengthened. To achieve a better balance in the Chamber of Deputies, rules for the composition of that body were changed, expanding the number of seats to include places for the exclusive use of minority parties. Henceforth, no parliamentary group would be able alone to adopt reforms to the constitution. Reforms were also enacted to double the size of the Chamber of Senators and allow for wider representation in that body.

The Government had made a significant effort to build a reliable electoral base by establishing a federal registry of voters, he said. The electoral rolls were now comprised of 45 million registered voters. Political parties had taken part in planning, supervising and building the electoral base. Further, there was an initiative to build an electoral authority that would be autonomous and based on the rule of law, certainty and impartiality. The resulting Federal Electoral Institute was a permanent body made up of executive and technical organs, with pluralistic representation.

By another reform, he said, the Federal Elections Tribunal was set up as the highest authority to resolve disputes that arose from election activity. There had also been changes to provide room for political pluralism in the country. While the changes had not solved all the problems, they showed the political will of the Government. Consistent with its political theory, the Government had cooperated with the international community for the promotion and respect of human rights.

Response to written questions

Mr. GONZALEZ FELIX, responding to written questions on the constitutional and legal framework within which the Covenant was implemented, said recent electoral legislation represented major strides on political reform in Mexico. Those reforms responded to citizen demands for reform and transparency in the electoral process. The constitutional and legal reforms, which had been described in detail in the introductory remarks, were the outgrowth of a concerted effort to meet societal expectations.

A major electoral reform involved the fact that no political party could now have more than 315 seats in the 500-seat Chamber of Deputies, he continued. The minimum representation of minority parties had been raised to 185 seats. No political party could have a two-thirds majority, which was required to amend the Constitution. Reform of the Chamber of Senators would be applied in the next federal elections in August. The rights and perogatives of political parties had been expanded. Reforms had also been instituted in the financing of elections to achieve greater equalilty in the competition amongst parties, he said. Private financing of elections had been defined and machinery had been established to set up ceilings on private expenditures. A financial disparity would not be allowed to exist to give advantage to one party. Television and radio time was also being made available. Enforcement of constitutional and legal mechanisms regarding elections was now being implemented.

In addtion, he said that as a result of the 1990 electoral reforms, all electoral federal bodies must be made up of a least six citizens without any party affiliation. On 28 February the top leaders of eight national political parties had signed a pact of peace, justice and democracy. Among the agreements adopted were a variety of measures to guarantee impartial elections and the electoral process. A Special Prosecutor would be appointed to investigate any violations of electoral law. The national parties were continuing to work out additional measures to reform the electoral process.

He went on to say that there had been no direct invocation of the Covenant in Mexico. The national Constitution of Mexico had devoted an entire chapter to human rights and had enshrined each of the rights in the Covenant. It was easier, then, for individuals to invoke the Constitution directly when violations of human rights occurred.

He said the National Human Rights Commission was an autonomous body with constitutional status. The Commision was empowered to deal with acts of an administrative nature that might have been committed by judicial bodies. The law provided for machinery to deal with other issues, as well. The Commission, although adminstrative in nature, did have ties to the judicial authorities. It was an independent body that enjoyed great prestige in society. Its actions were made known to the general public throught the mass media and it was empowered to present serious complaints at the level of the appropriate competent authority. The Commission sought to come up with swift and effective responses to human rights violations.

Referring to programmes for protection of children, he said on 25 January 1991 Mexico had adopted the provisions contained in the Convention on the Rights of the Child. Those provisions conformed to Mexican legislation on labour matters. The work of minors was regulated by law. Similarly, labour inspectors monitored compliance with such laws concerning work by minors. The inspectors recorded violations and presented them to authorities, which could result in a fine for the employer who had violated the law. Mexico had promoted activities to ensure employer compliance with the labour laws, including appropriate training mechanisms.

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Activities to integrate young people into the labour force continued, he said. Work permits were being issued and guidelines had been developed, which promoted such things as continued secondary school attendance for minors who were employed. Fines had been increased against employers who violated child labour laws. The issue of street children was so complex it would require a broad-based policy of prevention. A number of institutions and individuals had undertaken programmes to support the nuclear family and to provide alternatives for children on the streets to find remunerative work. The national progamme for the benefit of children had been launched and during 1992 more than 12,000 children benefited from new programmes.

Regarding Chiapas, he said the conflict in that area had not prevented the participation of the citizens of that state in public affairs. Since the beginning of the year, the citizens of Chiapas had significantly increased their participation in the national political system. Postponement of the election of a governor for the region had been considered. The Government had redoubled its efforts to provide greater protection for indigenous groups in Chiapas regarding the exercise of their human rights. Various complaints were being investigated in the region. It had been difficult to pursue human rights activities in conjunction with the armed conflict in the region and its aftermath. The National Human Rights Commission had been in the region since 2 January.

The Constitution stated that the language, culture, practices and customs and specific forms of social organization of indigenous groups would be protected, he added. They would also be guaranteed access to the legal mechanisms of the State. The integrity of the lands, forests and common waters of indigenous groups were also protected. Agrarian courts and a prosecutor were established in 1992 and both had regulations to provide services to the indigenous groups in their own languages and considering their own practices and customs. Interpreters would be made available. Special protection would be provided for the community lands of indigenous peoples. The legal defense of the lands of indigenous peoples was one of the most difficult problems encountered.

He said the criteria to bring indigenous peoples into the Government was not based on treating those groups as minorities needing special treatment. The promotion of the well-being of those groups was intended to allow them to integrate and improve their position in society as a whole. Quotas for their participation had not been a practice. There had been no attempt through minority quota mechanisms to move those groups into leadership positions. The overall policy had aimed at education and integration of the indigenous populations.

MARCO TULIO BRUNI CELLI, expert from Venezuela, said said there were reports that the authorities were not complying with the recommendations issued by the National Human Rights Commission. The Commission itself had made public its concern at the lack of response. What measures had been made to translate into reality the Commission's recommendation? he asked.

He said the "governability clause" did not square with the spirit of article 25 of the Covenant that the most genuine representability possible be achieved. He asked for a more specific explanation of the clause and asked if a political party obtained only 35 per cent of the vote, did they automatically obtain 51 per cent of the seats. How did he reconcile the provisions of the Covenant with electoral laws that did not square with political representation? He also asked for elaboration on the phrase in the Constitution that referred to the applicability of the Constitution and "all treaties that were in consequence with it".

FRANCISCO JOSE AGUILAR, expert from Costa Rica, questioned the governability clause. He found it odd that a party that did not win a specified per cent of the vote should be allowed to win a majority of seats. In most democratic countries, if one did not manage to win an absolute majority, there was an interplay among the various parties with a building of coalitions in expression of the people's will. He hoped that the Mexican system, which was undergoing major modifications, would arrive at a system that would abide by the people's will. The present system, however, was notorious for its degree of fraud. The governability clause saw to it that a party that did not receive a majority would get it anyway. He asked what was meant by the paragraph in the report which referred to a "trend towards interference in the internal affairs of States under the pretext of protecting human rights". He also requested more information on the degree to which the report was made public.

CHRISTINE CHANET, expert from France, said Mexico could take such a position on the trends towards interference in the affairs of States, but that position was not relevant in a report to the Human Rights Committee. The Government surrendered some portion of its sovereignty by undertaking obligations that were integral to the Covenant. That paragraph in the report did not seem appropriate to the discussion of article 40. Where did things stand with regard to its reservations to articles 18 and 24? she asked. Did the Government intend to go further in allowing ministers of religion to have complete access in public affairs?

Regarding the governability clause, she said a party with a relative majority might in the end find itself with an absolute majority and be in a position to govern. All the comments by specialists in constitutional law stated that the system, as it existed, favoured the party in power. In 1992, complaints were lodged, but all were rejected due to a failure to fulfil certain formal requirements. What measures did the Government have to ensure that elections were clean and honest, so that the Committee could see that all of the conditions called for by article 25 were being met?

She questioned the effectiveness of the National Human Rights Commission. The idea was good only if the Commission had power. The gap between the number of complaints and the recommendations that were being followed was great. Despite events in Chiapas, it had not been found necessary to declare a state of emergency, but it was inaccurate to say that fundamental rights were not suspended. Arrests were made without warrants and the right to movement had been restricted, all without resort to declaring a

state of emergency. That seemed to violate article 4 of the Covenent. Why was a state of emergency not decreed and why, if rights were restricted, were they not restricted in conformity with article 4? she asked.

ANDREAS MAVROMMATIS, expert from Cyprus, said there was a wealth of information in the report, but it would have been useful to have the report before the Committee a bit earlier. He said he had witnessed in his visits to Mexico over the past 15 years a remarkable progress in social and economic development and in the field of human rights.

He inquired about the inaccesibility of areas involving indigenous populations in relation to the federal Government. There was a de facto difference between federal districts and those regions involving indigenous populations. He acknowledged the necessity of a stable government and the impossibility to achieve a perfect electoral system. A system of increased proportional representation had been used in some countries to ensure governability. He asked how it was possible that members of parliament could not be elected for a second consecutive term -- a practice contrary to that of most countries. He also inquired about the exclusion of ministers of religion from holding public office.

Was preregistration a prerequisite for the existence of a political party, the achievement of 1.5 per cent of the vote? he asked. What was the distinction beteen a permanently registered political party and others? Regarding the National Human Rights Commission, he inquired about doubts which had been expressed by non-governmental organizations about the impartiality and the effectiveness of the work of the Commission. Members of the Commission were appointed by the President and endorsed by the legislature, both representing the majority party, which raised questions about the independence of the Commission.

JULIO PRADO VALLEJO, expert from Ecuador, stressed that Mexico had made great progress recently, especially in the form of legislation. The application and practice of the legislation was as important as its creation. He asked about the actual practice and implementation of the provisions of the Covenant and noted that the defense and promotion of human rights in no way impinged on the principle of non-intervention. He asked to what extent the problem of drug-trafficking had an impact upon human rights.

The creation of the National Commission was important, he stated, but its powers were questionable. Its recommendations were non-binding. In several cases the recommendations of the Commission had not been followed. If the Commission had only moral powers, it was difficult to move forward in the implementation of human rights. The Commission needed binding powers.

He said the dialogue and actions resulting from the events in Chiapas were encouraging. But there was evidence of an excessive use of force by the authorities. Had any investigations occurred in an attempt to bring the violators to justice? What was being done to balance the federal laws and the needs of indigenous groups? It was not the first time in Mexico that human rights had been violated by security forces. What was the plan of action to deal with situations such as had occurred in Chiapas? What measures had been taken to investigate claims of violations of human rights in Chiapas?

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1303rd Meeting (PM)

HR/CT/325
28 March 1994

MEXICO, IN HUMAN RIGHTS COMMITTEE, DESCRIBES EFFORTS AT ELECTORAL REFORM

Cites 1990 Creation of Electoral Authority as 'Historical Benchmark'

Democratic political processes in each country were dependent upon the different internal conditions in those countries, a representative of the Federal Electoral Institute of Mexico told Human Rights Committee experts this afternoon.

Speaking as the Committee continued its examination of his country's third periodic report on measures taken to implement obligations under the International Covenant on Civil and Political Rights, he added that the problems with building democracy in Mexico continued to produce controversy, particularly with respect to the preponderance of a particular political party. Thus, the establishment of an electoral authority in 1990 was a historical benchmark as, for the first time, Mexico had installed a permanent electoral body.

Experts questioned measures that had been taken to guarantee the right of full and equal participation in the electoral process and Mexico's representative pointed to the changes in registration procedures, campaign financing and access to the media as examples of electoral reform.

Committee members also raised questions concerning the effectiveness of the newly established National Human Rights Commission. In response, the Coordinator of Human Rights and Narcotics of the Ministry for Foreign Affairs of Mexico, Miguel Angel Gonzalez Felix, said that the new institution had been successful and represented considerable progress over the situation as it existed five years ago. The Commission, which was linked to the executive branch, independently and publicly investigated cases, made recommendations and intervened with officials.

Experts also expressed concern about the land rights of indigenous peoples and how they had been affected by recent constitutional change in Mexico. One Committee member questioned whether the indigenous peoples had been involved in making the legal and constitutional decisions that affected them.

The Committee will meet again at 10 a.m. Tuesday, 29 March, to continue its examination of Mexco's report.

(more)

For information media—not an official record

Committee Work Programme

The Human Rights Committee met this afternoon to continue its examination of the third periodic report of Mexico on its implementation of the International Covenant on Civil and Political Rights. The 18-member Committee, as monitoring body for the Covenant, periodically examines reports submitted by the 125 States parties on their promotion and protection of civil and political rights.

The Committee will continue its oral questions and responses by the delegation of Mexico on the constitutional and legal framework within which the Covenant is implemented, state of emergency, non-discrimination, protection of the family and children, and rights of minorities.

The representatives of Mexico will also be responding to the Committee's written questions on right to life, liberty and security of person, treatment of prisoners and right to fair trial.

Questions by Committee Members

ELIZABETH EVATT, expert from Australia, expressed particular interest in recent political reforms in Mexico. Much attention had been given to the allocation of seats in the legislature. Because of a history of allegations of electoral fraud, was there a possibility of developing impartial means to ensure electoral fairness? she asked. Was there a mechanism to see that all peoples in each regions participated in the process? For example, could individuals stand for election outside a party?

She expressed concern about the land rights of indigenous peoples. How had recent constitutional amendments affected the use of land by the indigenous people? she asked. Had the indigenous peoples been involved in the decisions that affected them? She mentioned the need to address the violations of the rights of indigenous peoples. What was being done to address the needs of persons displaced from their homes? Were there any remedies for those people who had been forcibly removed from their homes?

WALEED SADI, expert from Jordan, asked how the combination of human rights and narcotics came about in the formation of the governmental agency dealing with both areas. He inquired as to whether the Covenant was considered relevant to the process of modernization in Mexico. How relevant was it to the political development process? he asked. If the Covenant was never invoked in Mexico, was that because the Covenant wasn't well known or had not been made available to the general public? Was it primarliy a question of lack of knowledge of the Covenant?

He then went on to ask if the problem of street children was solely an economic problem and why it persisted. Had the problem been properly diagnosed? In connection with that problem, was there a problem with child prostitution or the export of children for organ transplants? If a person under the age of 18 could not be prosecuted, what actually did happen to them when they committed a crime?

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OMRAN EL SHAFEI, expert from Egypt, said Mexico had certainly made progress since the last report. As reflected by the Declaration of the World Conference on Human Rights, there was, in general, a great concern about massive violations of human rights of particular groups throughout the world. He expressed the hope that the statement in the report of Mexico about "unnecessary interventions" did not apply to actions being taken on behalf of those whose rights were being violated.

Did the authors of the report feel that trade unions and other groups were part of the State or somehow separate from the State? he asked. It was necessary to elaborate on the exact nature of the National Human Rights Commission. How did it intervene in the legal proceedings? What type of Commission really existed in Mexico and what was its mandate? If the electoral system was compatible with article 25 of the Covenant, why was it necessary to reform the electoral process? The incompatibility of the national legal system with the norms and customs of various indigenous communities was another area of concern.

ROSALYN HIGGINS, expert from the United Kingdom, said she was impressed with the seriousness with which the Government of Mexico had undertaken the reporting obligations and with the report's adherence to the guidelines. Regarding the paragraph with the "ill-judged reference" to sovereignty and human rights, she said that even if Mexico had not undertaken to submit to the provisions of a treaty such as the Covenant, human rights were the rights of the people, not of the Government.

While the National Human Rights Commission was very vigorous, some viewed it as being too close to the Government, she said. On the other hand, recommendations by persons who were well-regarded by the Government were not effective. She was somewhat concerned that the Commission could act as a method of avoiding prosecution by the Government. She asked if the reference to "public servants against whom penal action has been taken" meant that penal action had been commenced or that those persons had been found guilty.

On the question of electoral reform, she asked how the federal agency was selected. What was being done about threats to members of the political opposition? she asked. Mexico had done much to improve the electoral system, but she questioned the problem of significant financial resources going to candidates selected from the governing party. What about the control of funds going directly from the Government to particular projects, she asked.

FAUSTO POCAR, expert from Italy, said he had some problems with the effectiveness of many of the activities of the National Human Rights Commission, especially those activities concerned with the judiciary, and the practical outcome of its investigations. Noting that no emergency had been declared in January during the events in Chiapas, he said that it had been reported that a number of rights had been suspended, including search and arrest without a warrant, and incommunicado detention. There was also the derogation of rights under articles 17 and 27, such as not allowing the family of people who were killed to bury their dead.

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He said the major human rights that had been derogated seemed to concern indigenous people. The derogation of the rights of others seemed to have been accidental, rather than systematic. How much of that was the consequence of a past sytstematic disregard for the rights of the indigenous people? he asked. He also requested further information about the special measures of protection for indigenous people.

RAJSOOMER LALLAH, expert from Mauritius, referring to article 25 of the Covenant concerning elections, asked what measures had been taken to guarantee the right for everyone to take part in elections. What were the qualifications? What was done to guarantee full and equal participation? What percentage of the electorate took part in the last election?

There seemed to have been a confusion in the report between the rights of minorities and the right of non-discrimination, he continued. To what degree did society accept, value and respect the existence of minorities? To what extent did that acceptance lead to participation in the political process and in the society as a whole?

LAUREL FRANCIS, expert from Jamaica, asked if, given the street children phenomenon, there was a corresponding youth programme in existence at the federal level to take care of older youths.

BERTIL WENNERGREN, expert from Sweden, referred to the reference in the report that the Mexican Government could not pass laws that went against the Covenant. Such a statement implied that Mexican law was in perfect concord with the Covenant and did not need change. He asked for an elaboration on the investigatory powers of the National Human Rights Commission. Could the Commission ask for investigative assistance from the ordinary authorities and institutions?

MIGUEL ANGEL GONZALES FELIX, Coordinator of Human Rights and Narcotics of the Ministry for Foreign Affairs of Mexico, said the creation of the National Human Rights Commission represented an important step in Mexico. As a new institution, it had been successful, but it had its limits as well. The first problem was how to fit within the traditional division of powers. Its links with the executive branch allowed it to request any information it desired and it had considerable authority in investigations. If an official did not respond within a limited period of time, he could lose his job.

He said the Commission carried out its investigations independently. Forty months had produced some 650 recommendations. Of those, 13 had not been accepted, 307 were accepted and verifiably complied with, over 300 had achieved partial fulfilment with verification, 5 were carried out without proof, and 2 were accepted and unsatisfactorily carried out. Officials had to take public opinion into account and there were an increasing number of recommendations that were being complied with, with verification. The recommendations were not totally binding, as that would bring the Commission into conflict with the judiciary. He said the Commission publicly investigated cases, made recommendations and intervened with officials, which represented considerable progress over the situation five years ago.

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About the practical outcome of new electoral reforms, he said there was a more open atmosphere regarding human rights in Mexico. Some of the obstacles to further progress were those of extreme poverty and the special situation of the indigenous population. Complaints to the National Human Rights Commission about torture had diminished because awareness in the police corps regarding human rights had been raised. In Mexico, the questions of human rights and drug traffic were looked at separately, but there had been changes in procedures that had been employed in regard to drug traffic.

He went on to say that the practice in Mexico was that after a report had been produced, such as Mexico's report to the Committee, it was disseminated to the media and publicly discussed. Whenever there was an important forum on human rights, members of the Government met with the non-governmental organizations, which were informed of the report and given a copy. The Government understood that there must be international cooperation in the field of human rights and it cooperated with all the United Nations and international bodies on human rights. It was only skeptical when information about human rights was used in regard to internal matters.

MAURICIO COLLADO MARTINEZ, representative of Mexico, referring to the clause of "governability" raised by Committee members, said it did not currently exist in Mexican law. In 1989, and in 1990 the rule of 35 per cent leading to a majority of seats in the Chamber of Deputies had not been called into effect, as the ruling party had received 61 per cent of the vote. As stated in the report, a new method of proportionality had been instituted. The new rulings had emphasized a different means of proportioning the seats in the Chamber of Deputies and the majority party could only hold up to 315 seats. Since 333 were necessary to amend the Constitution, agreements with minority parties would be necessary to make such changes.

The Chamber of Senators had been formerly elected on a majority principle, he continued. When the new system of integration was established, the possibility of other parties gaining access to the Senate came into being. The current system allowed for the leading minority party to be represented in the Chamber of Senators. A method was devised so that plural representation would be possible.

Regarding the implementation of electoral laws, he said in 1994 general elections would be held for the presidency and the two chambers of the legislature. Some of the fundamental factors that had shaped the new electoral process was the building of a grass-roots electoral list. Fair and equal conditions for all of the political parties was a primary principle. To determine who could vote in the 1994 election, a general list and the necessary voting credentials were being compiled. Of the general list of some 45 million registrations, 42 million now had their photographic credentials. The delivery of credentials was ongoing and would continue until 15 July.

In the elections of 1994, as the result of electoral reforms, ceilings had been set for campaign expenditures, he said. Great efforts were being made to provide access for all political parties to the mass media. Time was being reserved under equal conditions for such access. Electoral reform was

common in many countries. Most systems, no matter how fair, could be improved upon. Efforts at such reform were not of a single dimension. They dealt with a wide variety of issues.

MANUEL CARILLO POBLANO, Coordinator of International Affairs, Federal Electoral Institute of Mexico, said the experts would be given a package of documents that explained the essential features of the electoral system of Mexico. The electoral system had distinct spheres. There was a jurisdictional dimension that was a distinct entity, but built into the federal electoral apparatus.

He said the political process in each country depended on particular aspects of the individual country. The problem of building democracy in Mexico had historical benchmarks that continued to produce controversy, in particular the preponderance of a particular party. The establishment of the first electoral authority in 1990 had, for the first time, installed a permanent electoral body. There was electoral participation at the grass roots, magistrate, legislative and political party levels. There was a system of monitoring elections and the possibility of employing international monitoring was under discussion. Political parties had to obtain less than 1.5 per cent of the vote on two successive occasions before they were stricken from the list of parties eligible to participate in the electoral process.

Mr. GONZALEZ FELIX said his Government had not found the elements necessary to declare a state of emergency during the Chiapas uprising. Human rights guarantees had not been suspended during that situation. There were warnings about travel in certain regions, but all groups still enjoyed full freedom of movement. A report had indicated that there had been specific instances of violations of human rights in Chiapas. Incidents of disappearance, summary execution and maltreatment had been reported. Both civilian and military authorities were following up on the reports.

The violence in Chiapas was similar to a war which involved certain circumstances of detention, he said. The results of investigations were being made public. There had been difficulty in providing protection to one of the vulnerable indigenous groups and discussions were being held on a new blanket law to cover the entire situation of indigenous peoples. A special commission had been set up to ensure justice for indigenous peoples. Although the groups that had arisen in Chiapas were indeed indigenous peoples, there was not a practice of discrimination against indigenous peoples. Indigenous people were not treated as a minority. The new special commission had been implemented to see that the rights of indigenous groups were respected. There had been specific efforts to protect the land of indigenous peoples.

SOCORRO FLORES LIERA, representative of the Secretariat of External Relations of Mexico, said Mexico was party to many international conventions pertaining to women. In domestic legislation, women's equality was recognized. There were laws that recognized situations where women were more vulnerable. Labour legislation recognized the rights of mothers, both prior to and post-delivery, and also recognized the need for kindergartens and other aids to working mothers. There were also certain stipulations for the

protection of women that afforded them the right to decide about the education of their children and allowed them equal say about property rights.

With regard to minors that had committed offenses, she said there was a level of justice meted out to minor offenders, but such cases were taken care of in special councils. Minors could be assigned fines, treatment or be dispatched to specialized institutions.

Mr. GONZALEZ FELIX said the Supreme Court of Justice took cognizance of international treaties. The Covenant was part and parcel of the supreme law of the nation. He expressed concerned about the problem of child prostitution and the possibility of traffic in the organs of minors. There were programmes of preventive measures for street children, but his delegation would be open to any suggestions from the experts about different approaches to the problem.

Regarding the Madrigal case, he said Mr. Madrigal had submitted a complaint regarding detention and torture which had been received and investigated. Up to the present, however, he had not provided further information so that the investigation could proceed.

Responding to written questions on the right to life, liberty and security of person, treatment of prisoners, and right to a fair trial, he said that, although the death penalty was no longer enforced, the Constitution had not been correspondingly amended. The debate on the issue had been lengthy, and it was not impossible that an initiative would come about in that area in the future.

The institutions responsible for security of the citizens had strengthened rules concerning firearms, he continued. Some 3,347 verifications of misuse of firearms by public officials had been undertaken. As a result, 54 officials were suspended and a number were reprimanded. A special commission had been set up to locate persons reported missing and each claim was investigated. He presented statistics related to cases that had been presented and documented. He went on to mention the numbers of people detained in Chiapas and explained that there had been cases reported of possible mistreatment. The National Human Rights Commission was investigating the complaints.

Some 1,780 public officials had been investigated for committing acts of torture, he said. The Comite Ciudadan Plural had been set up in 1992 as a body of citizens to improve the discharge of the duties of public officials, in regard to the supervision of prisons. As a result of the work of the Comte, the Attorney General had instituted reform. He went on to mention the process of implementing standard regulations for all prisons in the country. Free legal assistance was available in all family and criminal cases and the legal defenders were subject to the supervision of the Supreme Court. Federal officials were also called upon to provide assistance to individuals in situations that involved labour laws.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1304th Meeting (AM)

HR/CT/326
29 March 1994

HUMAN RIGHTS COMMITTEE CONTINUES EXAMINATION OF MEXICO'S REPORT

Experts Focus on 'Culture of Torture' among Police, Violations of Rights in Chiapas Following Armed Rebellion

Experts of the Human Rights Committee this morning focused on allegations that a "culture of torture" existed in Mexico among the police, as they continued their review of Mexico's third report on the implementation of the International Covenant on Civil and Political Rights.

The representative of Mexico, in response to such allegations, stated that reports of torture had declined since 1990 and, furthermore, in response to complaints of torture, a number of changes in the laws had been made regarding such things as forced confessions.

Several experts raised questions about a new requirement by the National Human Rights Commission that greater documentation was needed in complaints of torture. The representative of Mexico replied that, according to the new law, the burden of proof in allegations of torture was no longer placed upon the victim. Laws had also been changed to guarantee that interrogations would be carried out and recorded in the presence of defence counsel, he added.

Also this morning, the experts of the Committee expressed particular interest in reports of large-scale violations of human rights in Chiapas following the armed rebellion of the Zapatista Liberation Movement.

Noting that reports of arbitrary detention and disappearance had also diminished in Mexico, the representative of Mexico stated that only 21 persons remained in detention following the uprising in Chiapas. He stressed that the amnesty granted at Chiapas was directed exclusively at the rebels and was proclaimed for the indigenous groups in Chiapas. The violations of human rights by the security forces, which had occurred, were being investigated separately.

While the report of Mexico had indicated that there was an abolitionist trend and a strong movement to remove the death penalty from the Constitution, the representative of Mexico pointed out that the recent assassinations of a presidential candidate had made the climate for change difficult at the present time.

The Committee will meet again at 3 p.m. today to conclude its consideration of the report from Mexico.

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Committee Work Programme

The Human Rights Committee met this morning to conclude its examination of the third periodic report of Mexico (document CCPR/C/76/Add.2). During the fiftieth session of the Committee, which began on 21 March and will conclude on 8 April, four countries are presenting reports on their implementation of the International Covenant on Civil and Political Rights. Representatives of the Governments of those countries respond to oral and written questions from the Committee's 18 members who serve in their personal capacity.

Oral Questions from Committee Experts

JULIO PRADO VALLEJO, expert from Ecuador, asked about the amnesty resulting from the uprising in Chiapas. Was it for the indigenous people involved or was it for the security forces present at Chiapas after 1 January? he asked. He also inquired about reports of continued torture by police. Those complaints were frequent up until recently. Torture was still considered general practice in certain sectors of the police. Investigations of incidents of torture were taking a long time, and thus required ongoing monitoring. When torture was proven, compensation to victims was required. Such compensation was not being given.

The recommendations of the National Human Rights Commission were good, he continued, but those accused of infractions were not being punished. He said there had been information on forced confessions. Such forced confessions appeared to be the rule, as was arbitrary detention without legal process. He inquired about the practice of suspending rights and asked about the conditions necessary for such a suspension. He asked for clarification of the practice of publication of a sentence. He requested more information on the practice of prisoners working to pay the cost of their detention and on the practice of using "punishment cells".

He called attention to a ruling by the National Human Rights Commission that it would only investigate documented cases of torture. What sort of documentation was necessary to investigate, he asked. It was not necessarily possible to document such cases. After the Chiapas incident, persons had been detained without sentencing. There were also no interpreters during the trials for the indigenous peoples, who could not understand Spanish. He also requested further details on how the remedy of amparo could be employed. Could it be used in the case of a forced confession?

MARCO TULIO BRUNI CELLI, expert from Venezuela, said there had been significant reforms in terms of punishment for those convicted of engaging in torture, with penalties increased to 12 years and the creation of due compensation for victims. However, complaints had been received that government officials had actually been present at acts of torture. He asked for a response to that allegation. He also requested more information on the status of death penalty provisions. While the report indicated that there was an abolitionist trend and a strong movement to remove the death penalty from

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the Constitution, he said it would be helpful to know that there had been more than a discussion on a matter to which international human rights organizations attached great importance.

ELIZABETH EVETT, expert from Australia, stating that there had been 1,000 complaints of arbitrary arrests, said it had been the most common complaint together with torture in the period 1991 to 1992. How had 1,000 complaints been whittled down to a final 51 recommendations? she asked. She also wanted to know whether the number of complaints had produced a change. If measures and programmes were effective, it should be reflected in a reduction of complaints. Were such figures available? she asked.

BERTIL WENNERGREN, expert from Sweden, inquired about administrative remedies. What system was applied to ensure such remedies, she asked. Was there access to judicial review of any administrative decision? Would the district courts deal with a petition for a review? Were there any administrative tribunals to take care of appeals on such things as denial of permits?

OMRAN EL-SHAFEI, expert from Egypt, asked whether interrogations took place in the presence of defence counsels. Were the interrogations and the names of the person present recorded? Were there guidelines for interrogation procedures that were published and made known to defence lawyers and human rights groups? Was there any separation between the authorities responsible for interrogation and those responsible for the detainees?

Were arrests carried out under judicial control? he asked. Did law enforcement officials inform the person detained of the reason for arrest? Did all detainees receive oral or written instructions of their rights in a language they could understand? Under what circumstances did armed forces detain civilians? What guarantees existed against such arrests? What were the judicial safeguards against illegal detention? What medical safeguards were available to detainees? Were all reports of torture or ill treatment thoroughly investigated and prosecuted? Were victims compensated?

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, asked about the use of firearms by the security forces in Chiapas. There were complaints that weapons were used beyond that which was justified in a state of war. Had any of the armed forces been brought to court for abuse of the use of weapons? he asked. Were there going to be laws to restrict the possession and use of weapons by individuals? What was the status of investigations of persons who had disappeared or who had died after being arrested? Were there educational programmes for the police on respecting the rights of the citizens?

He also asked about the use of informants by the police. Such informants had been involved with torture and disappearances. Were they acting under the control of the police and had they been investigated? he asked. Much had already been said about torture by the police, particularly in Chiapas. A special law condemning torture might prevent evidence collected by such means, but it seemed that a culture of torture already existed in the police. People such as trade unionists and indigenous leaders were treated more harshly than

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others by the authorities. The statement by the National Human Rights Commission requiring more proof of torture was disquieting, as often such proof was hard to find. He also asked about the treatment of conscientious objectors.

ROSALYN HIGGINS, expert from the United Kingdom, said she was concerned over the well-documented allegations of torture in prison. She was also concerned over the physical location of the great bulk of people arrested in the Chiapas events. While noting that Amnesty International had been given access to prisoners at some sites, she asked for information on where the rest of the arrested and wounded were being held.

Also, on torture in general, she asked what specific checks were in place for those fired for abuses to ensure that they were not rehired later in similar positions. Were the amnesty laws, which seemed well-meaning as regards the rebels, also now applicable to military as well? In terms of the efforts on fair trial and pre-trial detention, how many arrests without warrants had been made? she asked. Also, what was the efficacy of the remedy of amparo?

VOJIN DIMITRIJEVIC, expert from Yugoslavia, said it was an excellent report particularly with regard to Article 10, which concerns deprivation of liberty. The Government was clearly trying to do something. He emphasized the problem of a lack of legislation protecting conscientious objection. On torture, what happens if, at trial, the plaintiff objects to evidence obtained under duress or torture, he asked?

WALEED SADI, expert from Jordan, noted that Amnesty International, a highly respected organization, had sent a delegation to Mexico to investigate reports of torture and disappearances, an investigation with which the Government had cooperated . He requested information on the results of that investigation. Also the National Human Rights Commission did not seem to have much legal authority. Were there any plans to improve its efficiency by broadening its legal authority? he asked.

Response to Questions

MIGUEL ANGEL GONZALEZ FELIX, representative of Mexico, said that the amnesty at Chiapas was directed exclusively at the rebels. Arms possession was a requirement for such an amnesty. That, of course did not apply to the armed forces and did not require the armed forces to lay down their arms. The amnesty was proclaimed for the indigenous groups in Chiapas. The violations of human rights by the security forces were being investigated separately.

He said there had been reports of torture in Mexico, particularly from Amnesty International. Three or four years ago, in response to the complaints of torture, a number of forums were held and, as a result, laws were changed. For example, confessions were no longer sufficient proof in themselves. Interrogations had to be recorded and conducted in the presence of defence counsel. Victims no longer had to prove the act of torture. If there was a complaint, it was the accused captor who had to prove that the act had not

taken place. Also, the penalties had been extended nationally, beyond federal jurisdiction.

There was possible compensation for the victim from the torturer, he continued. If the torturer could not provide economic compensation, then the state provided the compensation. From 1990 to date, the practice of torture had diminished. In the first six months of 1990 the Commission on Torture had dealt with torture as its second largest category of complaints. By 1992, complaints of torture had become only the seventh largest number received and had continued to decrease after that time.

He referred to new recommendations on the issue of torture and said that in the past it had been difficult to ascertain the truth of incidents of torture. Before the courts, the seeking of compensation for victims of torture was a separate civil procedure. Once there was a recommendation from the National Human Rights Commission on torture, the courts were required to respond. There had also been changes in the law regarding forced confessions. All confessions had to be made in the presence of a lawyer or reliable person.

In Mexico, the first requirement for detention was a judicial order, he said. Some persons were detained while committing a crime, such as those who attacked the candidate for President. When those persons were caught in the act, it was often inaccurately called arbitrary detention. As reported by the National Human Rights Commission, the complaints against arbitrary detention had declined from 1993 on. The remedy of amparo did not have an effect on acts that had already taken place. Amparo was not effective in acts of arbitrary detention, as the act had already occurred.

Regarding special publication of sentences, he said that occurred in instances of slander. In such cases, there was an obligation to publish the judgement in the newspapers. Responding to the question on the work of prisoners, he said prisoners worked to pay for additional services. Basic services were provided by the State. It was not forced labour. The punishment cells were those with special high security systems to hold particular kinds of criminals, such as leaders of drug trafficking. Such cells were used in very specific security situations. The cells were not used for cruel or inhuman treatment.

As far as arrests in the area of Chiapas, he said there were only 21 persons detained at present. All others had been set free in accordance with legal procedures. Non-governmental organizations had free access to the prisoners. No one was detained in camps or military facilities. In any criminal procedure involving indigenous peoples, a translator had to be present. The National Commission had prepared various rules and regulation in the languages of the indigenous groups and had distributed them.

He stated that direct amparo existed to establish a review of court procedures. Indirect amparo existed as a remedy when there was an obvious act threatening an individual's freedom. A district judge had to rule immediately to end the violation. When an individual felt an individual right had been

violated, that individual might invoke amparo. Amparo, however, had no effect on past acts. It did not function in connection with past acts of torture or disappearance. Typical problems of civil rights were often such acts where amparo didn't apply. The National Human Rights Commission had jurisdiction in those cases.

The National Commission on 16 June had received a written complaint of violations by the police and security forces in Chiapas. Investigators were sent to the area and questioned those involved. It was determined that an investigation was necessary, and a ruling resulted. The Commission established that there had been violations in Chiapas committed by the authorities. Police and security forces had broken into the homes of persons and physically mistreated persons. Machetes, hatchets and other working tools had been seized by the authorities as weapons. It was recommended that the authorities return the working tools to the people.

In the general debate in Mexico on the death penalty, he noted, the two recent assassinations had presented a problem. Certain sectors of society were demanding the death penalty for the assassins. The times were not propitious for a change in the death penalty in Mexico.

It was still necessary to provide more precise information on the progress of criminal procedures in cases of torture, he continued. Many of the cases of disappearance that had been reported went back several years. The current list of persons stood at 210. A real effort was being made in Mexico to reduce the list of those who had disappeared. With the exception of the 23 new cases reported in Chiapas, no other new cases had been reported. Regarding the administrative procedures available in court proceedings, the remedy of amparo existed, similar to that of habeas corpus. The remedy of amparo was very effective in criminal proceedings. Beyond that, there were appeal possibilities for complaints and compensation. Those cases were civil disputes.

He agreed that the use and possession of weapons in Mexico was a serious problem. Drug trafficking brought with it the illegal use of weapons. It was hoped that the monitoring of weapons internationally would be more strict. Constitutionally, persons were allowed weapons for self-defence in their homes. A special permit was required to carry a weapon in the case of life-threatening circumstances. Educational and training programmes were being given to the police and prison authorities, he added. There were clear regulations for the police concerning informants. Measures were being considered to address the rights of immigrants and migrant workers.

In Mexico, he said, military service as a career was voluntary. General military training was made available on a one hour and once a week basis for young people of eighteen. The problem of conscientious objection with the Mennonites had been resolved.

Legal aid was made available to those who required it, he said. In the case of agrarian or labour laws, judges themselves could introduce measures themselves to protect the rights of indigenous groups. Cases of detention and

summary execution were being investigated in Chiapas and final reports should be available in the near future.

He said the Government had decided to deal with the situation in Chiapas under the rule of law. A suspension of guarantees would have led to a state of siege preventing the numerous international bodies and the National Human Rights Commission from carrying out their activities in the area. The idea was to protect civilians, the press and non-governmental organizations from armed confrontations.

Regarding the employment of foreign workers in private enterprise, he said that everyone was equal before the law and entitled to the same protection. There were certain restrictions on the employment of foreign workers in private enterprise, but they did not contravene the provisions of the Covenant. Certain posts could only be held by Mexicans, such as in the Navy and the Air Force, but that was a practice common to all States and should not be considered discrimination.

Certain laws required employers to give preference to hiring Mexicans when they were of equal competence with foreign applicants, but they did not prohibit companies from employing foreigners, he continued. Foreigners could devote themselves to any work that did not require a registered certificate. They could practise their profession after attaining the required certificate. In its promotion of fair labour practices in Mexico, there was no discrimination in employment.

Regarding liberty of movement and freedom to choose a residence, he said the freedom to enter the country, move about and leave the country was a right guaranteed in Mexico. The exercise of that right was in keeping with all secondary laws in the country. Nationals did not need to show a document to enter the country and they could freely leave unless they lacked immigration documentation.

Comments of Experts

KURT HERNDL, expert from Austria, expressed satisfaction that the report, which he described a excellent, also answered questions raised at the examination of the second periodic report. He did have several additional questions. What about the legal value of the national development plan by which anyone could exercise the right to demonstrate responsibly? he asked. Was it a law, an ordinance or an instruction issued by the Government? What kind of measures were being taken by the Department of Security and Highways to guarantee the right of citizens to demonstrate? Were they applicable to the police and those who monitored demonstrations?

Police were not allowed to intervene except in performance of their duties, he continued. What would be those duties? he asked. Were there legal ramifications or instructions? What were the regulations with regard to mass demonstrations? In a strike that took place last year, police with trained dogs and clubs attacked and injured 12 workers during a peaceful demonstration. In principle, workers in the service of State were allowed to

form trade unions, except those workers "in a position of trust". What constituted positions of trust? he asked. He questioned whether such stipulations were in line with the Covenant. He asked why, if there were 5,269 trade unions, they represented only 9.3 per cent of the workers.

BIRAME NDIAYE, expert from Senegal, said there seemed to be a conflict between the State and the Church. It was his impression that the Government was trying to restrict the development of the Church's property. There were also restrictions as to the participation of ministers of religion in the electoral process. Was there a certain malaise between the Church and the State? he asked. Did the fact that Mexican legislation did not recognize a difference between children born in or out of wedlock apply in practice?

In all countries, naturalized citizens were subject to a "test period", he said. In the Mexican system naturalized citizens were secondary for life. They could not hold certain offices such as President or member of Parliament. That was discriminatory. Mexican law went even further, in that candidates for those posts had to have a Mexican ancestor. Naturalized citizens should be totally acceptable. The ruling party had been in power for more than 60 years, longer than the Communist party in eastern Europe. How had they seduced the Mexicans for so long? he asked. Was it because they had financial means that were greater than the opposition party?

Turning to the electoral process, he said there did not be seem to be a limit to financing a campaign. Could a party accept external resources? he asked. He said his suspicions were aroused by the refusal to have outside observers present at elections. That was not an unusual practice in cases where there was a fear of irregularities.

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, asked for more information about the modification of laws applying to persons involved in the traffic of migratory workers throughout the country. He also asked for clarification regarding the definition of a family and asked if childless families were still considered families. He sought a further explanation concerning the right to work, asked for a percentage breakdown of the political affiliation of trade union workers, and expressed concern over the reluctance to use outside observers to assist in monitoring elections.

Ms. EVAAT, expert from Australia, asked for more information on the irregularities that involved breaches of privacy. She stated that a different kind of law and a different implementation of law seemed to apply in Chiapas. There had been a report last year that very restrictive rules applied to assemblies and meetings, rules that differed greatly from those described in the report. She asked for an account of how the laws differed. Was it within the function of the Commission to assess the laws in Chiapas and could they make recommendations in that instance? she asked.

Mr. WENNERGREN, expert from Sweden, said he had been disturbed about reports of restricting the freedom of association. He mentioned the arrest in February last year of a trade union leader in connection with a strike in a company with a large number of workers located near the border with the United States. He asked for more information on that event. What guarantees were there to protect the rights of trade unions? he asked.

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Press Release

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Human Rights Committee
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1305th Meeting (PM)

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DIFFICULTIES OF HUMAN RIGHTS IN MEXICO HIGHLIGHTED BY CHIAPAS UPRISING, SAY EXPERTS IN THE HUMAN RIGHTS COMMITTEE

Completes Consideration of Mexico's Third Periodic Report

All the difficulties of human rights in Mexico seemed to have been highlighted in the uprising in Chiapas, said experts in the Human Rights Committee this afternoon, as the Committee completed its consideration of the third periodic report of Mexico on its implementation of the International Covenant on Civil and Political Rights.

Summarizing their observation of the report, which had taken place during three meetings, experts agreed that the the problems of arbitrary detention, effective democratic rights and justice for the indigenous remained apparent in Mexico. The inferior economic and social condition of a large segment of the population, which often coincided with indigenous groups, affected the Government's ability to effectively protect and pursue their human rights.

Several experts reflected on the fact that Mexico continued to show the characteristics of a one-party State, where indigenous and other groups were marginalized and could not exercise their fundamental human rights. The new electoral laws and the establishment of the National Human Rights Commission did indicate a political will to improve human rights, but the powers of the Commission were too limited.

One expert said there were several clusters of human rights problems in Mexico that reflected collective psychological and social practices. Since torture and violence seemed to be an accepted way of doing things, training and a change of societal attitudes must accompany any change of laws. The next few years would show whether efforts by the Government would lead to a genuine change of heart and a real improvement in the situation.

In response to various questions at the beginning of the meeting about trade unions, the representative of Mexico noted that persons who worked for the banking industry and for the police were allowed to belong to associations and unions, but because of the public nature of their services, their right to strike was limited. Regarding changes in the relationship between church and

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For information media--not an official record

State, he added that limitations on the voting rights of ministers of religion and the right of the church to own property had been removed.

The experts concluded that the report from Mexico and the accompanying documentation had been commendable and demonstrated that considerable progess had been made in the implementation of the Covenant, although there was some concern expressed about the legal status of the Covenant in the country.

The Committee will meet again at 10 a.m. Wednesday, 30 March, to begin consideration of the second periodic report of Cameroon.

(page 2 follows)

Committee Work Programme

The Human Rights Committee met this afternoon to conclude its examination of the third periodic report of Mexico on that country's promotion and protection of civil and political rights (document CCPR/C/76/Add.2). Experts of the 18-member Committee, who serve in their own capacity, will hear responses from the delegation of Mexico on questions previously put forward on liberty of movement and expulsion of aliens, as well as on freedom of religion, assembly and association. Members will also make concluding observations on the report as a whole.

Response to Questions by the Committee

MIGUEL ANGEL GONZALEZ FELIX, representative of Mexico, said the national programme for development that had been mentioned in the morning meeting contained all the policies for the Government in the field of political action. It did not have legal validity, however.

Responding to a question on the right to demonstrate, he pointed out that in Mexico City alone over a million and a half people were mobilized for demonstrations in 1991. Five million were mobilized in 1992. Since there was no restriction on demonstrations, rules were necessary to deal with the great traffic problems and disruptions that resulted from such demonstrations. Some had raised the possibility that the demonstrations be made more orderly, so as not to create as many problems.

Regarding trade union rights, he said there was a great deal of mobility in certain responsible jobs, which made traditional trade unionism difficult. There were other possibilities of associations for those workers besides trade unions. The people in such areas as the foreign ministry could seek such associations. Areas like the banking industry or the police were limited in the right to strike because of their important functions in society. He said the question of trade unions at the Volkswagon company was being investigated. The "economically active" portion of the population was not heavily involved in the labour movement.

In response to a question on the church, he said traditionally there had been a clear cut distinction between the State and the church. Constitutional reform had given ministers of the church the right to vote and allowed the church to own property. Mexico was considering the elimination of its reservations to the Covenant in that respect. In regard to family issues, he said there was no difference legally in the treatment of children born in or out of wedlock. The right to succession and name were the same for both.

MANUEL COLLADO MARTINEZ, representative of the Director-General of the Federal Electoral Institute of Mexico, referring to questions asked about the possibility of "alternation", or having different political forces succeed each other in power, said that of the 32 federal entities, four were governed by parties considered to be opposition parties. That was a new phenomenon. Regarding political campaigns, he said the Presidential campaign was limited to spending $42 million. A ceiling would also be determined for deputies and

(more)

senators. It was not legal to finance campaigns from abroad. All parties were obligated not to accept contracts, economic or other support from foreigners.

MANUEL CARILLO POBLANO, Coordinator of International Affairs, Federal Electoral Institute, said the possibility of a third electoral reform was being discussed, including the possibility of setting up a special prosecutor for electoral crimes and utilizing observers from abroad. Between 1989 and 1993, there were 27 national bodies that provided observers. Eleven had an administrative structure and five of those had structures and methodologies of the most rigorous kind. Regarding international communication in that area, he said emphasis was laid on interchange and technical cooperation at various levels. Conversations were taking place with representatives of the United Nations on the question of training national observers to help Mexico comply with the principles of legality, objectivity, impartiality and accuracy. Conversations were also being held with other international organizations, as well as with electoral institutes in other countries.

Mr. GONZALEZ FELIX said there were fundamental reasons for the extreme punishments given to immigrant smugglers. They imposed subhuman conditions of transport and health on immigrants being smuggled across a border. He referred to one incident of immigrants being smuggled in a hermetically sealed van, where several had suffocated. In 1990, the penalties for immigrant smuggling had been made harsher.

To a question about the concept of the family, he replied that the family was considered the nucleus of society. There was no discrimination against families that were childless.

Referring once again to trade unions, he said bank service was considered a public service, so there was a limitation on bank strikes. Employees were able to belong to trade unions. Sometimes those who formed a trade union could have an affiliation with a particular political party. Each of the trade unionists had the right to belong to any political party; there was no specific party for the trade unions.

He said there was a great deal of freedom for trade unions. Factionalism within the trade unions often created problems. He said he did not have the information at present on the problems at the Volkswagon company and the detention of some trade unions in the north. It would be provided to the Committee at a later date in written form.

To a question on internal bodies monitoring the work of the authorities, he said those bodies had been established to prevent violations. In Chiapas, the population had raised complaints about crimes that were not treated as such in the rest of the country. One of the main agreements reached following the uprising addressed that issue. There had been a change in governor. Certain laws were going to be revised in Chiapas.

Concluding Comments

JULIIO PRADO VALLEJO, expert from Ecuador, said that most areas in the report and the subsequent examination had shown positive elements. The electoral process had been improved. Social development programmes were addressing the problems of the indigenous peoples. The establishment of the National Human Rights Commission was a mark of the progress.

Incidents of torture, however, still occurred, he continued. New machinery was necessary to prevent such acts and other abuses such as arbitrary detention. The National Commission should be given more power.

KURT HERNDL, expert from Austria, said a certain ambivalence prevailed in Mexico. He did not doubt the good faith of the Government to protect human rights. The creation of the National Commission was a step forward to look into specific cases and act as a complaint mechanism. The Government should continue along those lines. Something could be done to strengthen the monitoring mechanisms for the police.

Regarding Chiapas, he added that abductions, summary executions, torture and other extreme violations had been reported. A full investigation was therefore absolutely imperative. A mission from Canada had made a number of recommendations concerning Chiapas. Indian land rights and the right of use of appropriate resources should be appropriately addressed in the region.

CHRISTINE CHANET, expert from France, stressed the positive aspects of changes which had emerged in Mexico since the last periodic report, including the creation of the National Human Rights Commission and legislative reform. She expressed concern about the violation of human rights in Chiapas and shared the concern of other Committee members about electoral practices which still lacked transparency and were accompanied by violence. She was also concerned about complaints of torture, illegal detention and arbitrary execution, and the gap between the number of complaints registered and those that had had a judicial outcome. The abuse of the right to freedom of expression, particularly with regard to journalists, was especially alarming.

She recommended that the powers of the Commission be strengthened so that it could function independently and that the Government respect its recommendations. There should also be systematic prosecution of all acts of torture. Authorities should be properly trained so that such acts ceased to be part of their custom.

She said the need for a third electoral reform showed the weakness of the electoral system. The participation of outside observers might help to do away with suspicion about the electoral process, give it more transparency and enhance credibility.

MARCO TULIO BRUNI CELLI, expert from Venezuela, said there had been progress in Mexico in the field of human rights, including the reform of the constitution and laws governing human rights. There had been much cooperation with international human rights bodies. However, the Committee still had

concern about the situation of human rights in Mexico. He hoped that by the time of the next report, there would continue to be progress in the field of human rights, particularly with regard to the concerns expressed by the Committee.

ROSALYN HIGGINS, expert from the United Kingdom, said that the report had been one of the best before the Committee, and the cooperation and documentation of the delegation had been commendable.

She said Mexico shared the characteristics of a one-party State. The indigenous people and other marginalized peoples did not receive their fundamental human rights. The new electoral laws and the National Commission did reflect a political will to improve human rights. Much remained worrisome, however, including the problems of exploited minors, for example, and the limited powers of the Commission. The remedy of amparo was available in Mexico against a threatened harm and not against a past harm. Since the Commission had no powers to remedy a past harm, that lack of protection should be addressed.

The violations in Chiapas awaited the final report of the Special Prosecutor. Persons responsible for the violations should be brought to trial and the problem must not be allowed to go away. Developments in the area would be watched closely.

VOJIN DIMITRIJEVIC, expert from Yugoslavia, said there were several clusters of problems relating to human rights that reflected collective psychological and social practices. Torture and violence seemed to be an accepted way of doing things. Training and a change of societal attitudes should accompany any change of laws.

He said Mexico still remained weighted towards the rule of one political party. That ongoing attitude should be dealt with to aid the functioning of a true democracy. The inferior economic and social condition of a large segment of the population, which often coincided with indigenous groups, often affected their ability to effectively protect and pursue their human rights.

RAJSOOMER LALLAH, expert from Mauritius, said the problem of Chiapas was not new. The Committee was in the process of adopting a general comment on article 27 of the Covenant which referred to the rights of minority communities. It would be helpful for the delegation from Mexico to become aware of the Committee's thinking on that issue. The real problem centred around the people's way of life. If that was not attended to, problems would continue.

He said it was odd that when a person was illegally detained, the courts did not have the power to say that such a violation should stop immediately. He had assumed that the laws were the same in all the states of the Federal Republic. While the states were sovereign and autonomous, he had still thought that the laws affecting human rights were the same. Yet, it appeared that there were special laws for special crimes in the Chiapas region. If the laws were different in the 31 states, the Committee would expect to hear about

those differences as they affected implementation under each article of the Covenant on the occasion of Mexico's fourth periodic report.

FAUSTO POCAR, expert from Italy, said that since the last report, Mexico had made progress in the field of human rights. He was, however, disturbed by cases of torture, illegal detention and especially by the non-effectiveness of remedies to human rights violations.

In Chiapas, he said, there had been violations of article 4 of the Covenant. A declaration of emergency should have been declared, in view of the non-observance of certain rights. He was not satisfied with the delegation's answer that the Government did not consider that a state of emergency was needed. How could that be correct, inasmuch as the delegation had characterized the situation as a war. He called for the National Human Rights Commission to be strengthened and for the framework of protection for indigenous communities to be improved.

OMRAN EL-SHAFEI, expert from Egypt, said the impact of economic and social developments on human rights was reflected in the report. The situation in the Chiapas region was alarming and the manner it had been dealt with by authorities had a very negative impact on the human rights reputation of the country. The report from the mission from Canada, which had visited the region, had mentioned many atrocities of torture, abduction and summary executions. That group of observers said that the recent uprising stemmed from a long history of repression, and violations of the rights of civilians had taken place throughout the uprising. The ongoing systematic exploitation of the indigenous culture and the destruction of their way of life was evident, according to those observers.

BERTIL WENNERGREN, expert from Sweden, said it was difficult to grasp the entire situation of a country so large and diverse in regions and culture. He expressed doubts about the legal strength of the Covenant in Mexico. The fact that a public emergency was not declared in Chiapas suggested a lack of awareness of the place of the Covenant in the country. The National Human Rights Commission should have strengthened investigative powers. The remedy of amparo was also not as strong as it should be.

ELIZABETH EVATT, expert from Australia, said the quality of the information given was most impressive. The problems of arbitrary detention, effective democratic rights and justice for the indigenous remained apparent. All the difficulties of human rights in Mexico seemed to have been highlighted in the uprising in Chiapas. The next few years would show whether the efforts of the Government would lead to a genuine change of heart and a real improvement in the situation. Progress with the problem of immunity of authority would be an important indication of whether human rights had been improved.

WALEED SADI, expert from Jordan, said he was concerned about the status and relevance of the Covenant in Mexico. It should be viewed as a second constitution and a source of inspiration to guide policy. He did not believe that to be the case in Mexico. In an emergency, a country's true colours were

demonstrated. Recent events showed that there were serious pockets of problems in Mexico.

ANDREAS MAVROMMATIS, expert from Cyprus, said there had been progress in most human rights areas, even in those about which the Committee had expressed concern. Even in Chiapas, the response of the Government had been quite good. Now, what remained was to tackle the causes, which had been simmering for some time. The National Commision must be strengthened. Moreover, someting must be done with respoect to amparo.

LAUREL FRANCIS, expert from Jamaica, said the National Human Rights Commission had a major role to play in the fulfilment of human rights in Mexico. It should be empowered to give legally binding effect to its decisions and to enforce its decisions in situations of non-compliance. The Commission would be a proverbial saviour to disadvantaged Mexicans. Regarding overcrowding, water and inadequate food in prisons, he said he could understand why food shortages would affect the country, but he suggested that prisoners could grow their own food. In Jamaica, prisoners had for the most part made themselves self-sufficient in food. He hoped that in the next report there would be progress in that regard.

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said there were serious problems in Mexico, including a police culture accustomed to certain abuses. Those abuses continued. The situation in Chiapas was another area of concern, as was the implementation of article 25, which concerned voting rights. Within the region Mexico did not have the best record. It was, nevertheless, changing for the better. Today it represented a beacon for the majority of Latin American countries. The way in which the delegation had conducted itself showed that it was treading on firm ground.

NISUKE ANDO, Chairman of the Committee and expert from Japan, said there had been a fruitful dialogue and he stressed that the purpose of the dialogue was not to criticize any Government. The point was whether one faced the comments directly and tried to improve situations. He hoped the Committee's comments would be conveyed to the Government of Mexico. The Committee would adopt and transmit a written report of its conclusions on the report.

Mr. GONZALEZ FELIX, representative of the Secretariat of External Relations, said his delegation would await the recommendations of the Committee with great anticipation. On the question of Chiapas, he said events described in a Canadian report on Chiapas had been overtaken. He would like to submit an updated document on the situation as it existed now.

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